

CHAPTER VI

INVESTIGATIVE PROCEDURES

1. Introduction. The BAM investigation is the mechanism for intensively reviewing payments to determine if they were made to eligible claimants and, if so, whether payments were made in the proper amounts. Each case selected for BAM is an original payment for a specific week of unemployment, referred to as a "Key Week". Each Key Week is investigated to verify that all information pertaining to eligibility and payments is treated in conformity with state written law and policy. In addition, denied claims, identified as Denied Claims Accuracy (DCA) are investigated for accuracy of determinations covering disqualifying monetary, separation, and non-separation issues. The data obtained from these investigations will be used to draw inferences about the claimant population as a whole. It is important, therefore, that the investigative requirements are adhered to for each case.

The investigation also involves gathering data about the claimants and claims sampled for entry into an automated database. These data, in combination with the classification of the case findings, will be used for state analysis and corrective action.

These investigative procedures apply equally to PCA and DCA investigations. For more information on where DCA investigations differ, see Chapter VIII.

2. Standard Forms. Each BAM unit must develop standard forms to be used in investigations for:

- Claimant Questionnaire – adapted to state law (see required format in Appendix B)
- Work Search Verification - Employer
- Work Search Verification - Labor Organization
- Base Period Employment - Wage / Employment Attachment Verification
- Separation / Intervening Separation / Recall Status Verification
- Benefit Year Earnings / Current Employment Status / New Hire Reporting Compliance Verification
- Disqualifying - Deductible Income Verification
- Authorization to Release Information (where required)
- Fact-finding Statement
- Dependency Eligibility Verification (if applicable)
- Interstate Request
- Summary of Investigation

The questions on all forms that address eligibility must be adequate to obtain information that the SWA requires to determine adherence to provisions of law and written policy. All forms used for interviews must provide space for the name or signature of the person being interviewed, the SWA investigator's signature, the method used to obtain the information, and the date of the interview.

In SWAs where an "Authorization to Release Information" form is required, the investigator must have this form signed and dated by the claimant.

3. Investigative Requirements. Investigators must adhere to the minimum requirements presented in the Investigative Guide (Appendix C) that summarizes the data sources, initial action, and documentation required for each data item gathered during the investigation. This means the investigator must assure that:

- (1) all issues have been identified;
- (2) all issues have been pursued to a supportable conclusion;
- (3) all issues identified have been properly resolved; and
- (4) all required BAM methodology and procedures have been followed.

The findings of BAM must be consistent with laws, official rules, and written policies of the SWA and all conclusions pertaining to the key week or denial must be formalized in official agency action if errors are found, except where prohibited by SWA finality provisions.

The following general requirements must also be adhered to during the course of BAM investigations:

a. Investigative Method. Investigations are comprised of reviews of SWA records and interviews of claimants, employers, and third parties. Initially all BAM investigation interviews were conducted in person. In 1993, alternative methodologies were implemented which allowed states the option to substitute telephone, FAX, e-mail and standard mail for in-person verification of contacts with employers, third parties and on some work search verifications.

Regardless of the method used, it is intended that states obtain the information needed to complete their BAM cases. States must attempt to obtain the information required for investigations using any and all of the following methods: in-person, telephone, FAX, mail or e-mail. States have the option of using any of these methods that it determines to be the most efficient and effective based on the circumstances of each case. States are to document all attempts made in procuring needed information in each case's summary. Within this framework, it is important to note that the audit process differs substantially from normal UI operations in terms of cost, time, and effort. **BAM investigators must exhaust all avenues in obtaining information.** This contrasts to UI operations, which are held to a reasonable attempts standard.

The regulation establishing Quality Control (QC), now referred to as BAM, procedures for UI (20 CFR, Part 602) stipulates several standard methods, including the requirement that states, "Use a questionnaire, prescribed by the Department, which is designed to obtain such data as the Department deems necessary for the operation of the QC program; require completion of the questionnaire by claimants in accordance with the eligibility and reporting authority under state law" [20 CFR §602.21]. For BAM purposes, failure to report or respond means:

- failure to complete the claimant questionnaire by the due date specified in the cover letter that accompanies a mailed claimant questionnaire;

- reporting, calling or e-mailing at a time other than assigned by BAM;
- failing to respond via e-mail, failing to report, call or be available by phone at an appointed time to provide information or to complete the claimant questionnaire;
- failing to respond to a call-in notice, appointment notice, or e-mail notice; and / or
- failing to respond to potential issues identified for the completion of necessary new and original fact-finding.

The claimant should be notified in advance that failure to report when directed or to complete the questionnaire by the due date may result in a delay or in a denial of benefits. The BAM investigation requires completion of the questionnaire in accordance with the eligibility and reporting authority under state law.

BAM investigators must attempt to obtain information from all employers relevant to the paid or denied claim audited and require employer reporting compliance in accordance with state law. However, it is the responsibility of the investigator to take the initiative in the discovery of information. This responsibility may not be passed on to the claimant or the employer.

Standard BAM investigative procedures must be in place to ensure that: sufficient information is collected to determine whether the Key Week payment or denial determination is proper; and accurate data is collected and recorded for analytical purposes.

b. Investigative Focus. Investigations begin with the assumption that the Key Week was properly paid; however, all areas of eligibility are explored that could directly affect the Key Week. BAM investigators must examine all issues regardless whether they are new issues encountered during the investigation leading up to and including the Key Week or prior issues or payment adjustments resolved by the agency -- and make an independent decision whether the issue or payment adjustment has the potential to affect the Key Week payment. This makes a distinction between issues that could directly affect the Key Week and those that potentially involve a disqualification or ineligibility which could not affect the Key Week. BAM staff should refer issues to another SWA unit, when the investigator decides that no potential exists to affect the Key Week.

However, if the potential to affect the Key Week exists, then BAM investigators must continue the investigation. All areas of eligibility are explored that could directly affect the Key Week payment. The investigator must conduct new and original fact-finding on newly arising issues or on previous issues not adequately adjudicated. Additionally, the investigator must independently verify established facts in instances where previously resolved issues or payment adjustments appear to have been handled properly. This includes the entire period between the benefit year begin date and the Key Week end date.

BAM investigators do not have to examine weeks after the Key Week. In some instances where a disqualification is imposed for fraud or a separation, weeks compensated after the Key Week may be improper. In addition, the BAM investigator may identify a disqualifying issue that occurs after the Key Week (i.e. new hire hit with the first day worked after the Key Week end date). BAM investigators should refer newly arising or improperly resolved issues, which they have independently determined cannot affect the Key Week payment accuracy, to the appropriate SWA unit.

c. Fact-finding. Investigators must conduct new and original fact-finding in accordance with the Secretary's Standard for Claim Determinations as prescribed in sections 6010-6015, part V of the ES Manual on all issues that have not been detected previously. In addition, the facts of previously resolved issues affecting the Key Week must be verified. State laws or policy which might make an issue moot (e.g., when a decision becomes final by virtue of the expiration of the appeal period without an appeal being filed) must not preclude pursuit of issues for BAM purposes. The issues must be pursued until a supportable conclusion is reached. Issues not affecting the Key Week should be referred to other SWA staff for pursuit and resolution unless adjudication by BAM staff would only involve incidental time and resources.

"New and original fact-finding" means interviewing the best witnesses available, obtaining the best evidence available, and using open-ended inquiries. New and original fact-finding is applicable not only to newly arising issues, but also to those developed in attempted verification of facts (see next paragraph). BAM investigators must conduct fact-finding in accordance with BAM investigative procedures using any reasonable method to obtain the needed information or provide an adequate explanation as to why it was not done.

"Verify facts" means confirming previously established statements, reviewing previously established records, using standard forms for inquiries and requiring form completion. Verification of facts applies to previously resolved issues, but if a new issue is developed, new and original fact-finding is employed. (See previous paragraph.) BAM investigators must verify facts in accordance with BAM investigative procedures or provide an adequate explanation as to why it was not done.

d. Evidentiary Facts. Investigations of new issues must be conducted by obtaining evidentiary facts, as distinguished from ultimate conclusions. Open-ended questions must be asked, and if the contact is made in-person, employer records should be reviewed and may be copied by the investigator.

e. Information/Source Documentation. Where information is obtained in-person, the signature of the person providing the information must be obtained on the verification and/or fact-finding statement. Where information is obtained using standard mail, e-mail, telephone or FAX, the name of the person providing the information should be printed in the signature block by the BAM investigator. In some instances, the forms developed for the remaining sections of this chapter will provide ample space to record the statements. In other instances, it will be more convenient to utilize separate documents. For these latter situations, SWAs must either develop formats to use exclusively for BAM or utilize forms already in use for other purposes.

f. State Law and Policy. States' written laws and policies are the bases for all determinations. Written policy is that policy that is distributed SWA-wide and upon request, may be made available to the public.

g. Conclusions and Agency Actions. All conclusions pertaining to the Key Week or denial, that are drawn from the BAM process, must be formalized in official agency actions if errors are found, except where prohibited by SWA provisions such as finality.

h. Supporting Documentation. All determinations made as a result of BAM investigations must have supporting documentation.

i. Non-English Speaking Claimants. All requirements that SWAs normally apply to contacts with non-English speaking claimants must also be applied to contacts for BAM.

4. Investigative Methodology. Investigative methodology is a system of principles, procedures and practices that have been designed to obtain the information necessary to classify the propriety of benefit payments. The investigator must interview claimants, employers, and third parties to: (1) verify the information originally used in the claim, and (2) gather information to determine if there are undetected issues or issues that were improperly treated. The methods of contact to be used are: in-person, telephone, FAX, e-mail, and standard mail or any combination of these methods.

States should structure the investigation in a manner that will permit them to obtain the best information possible. Studies have shown that for claimant interviews and work search verifications, the in-person method of contact provides the best quality of information, while the use of telephone, FAX and/or mail appears to work equally well for prior employer and third party verifications.

a. Claimant Interview. The claimant interview anchors the BAM investigation and is a major detection point for a number of overpayments and underpayments. The claimant questionnaire is a required standard form (see Appendix B) to be completed by the claimant.

States must alter the questionnaire to satisfy unique aspects of their laws. States cannot introduce conditions of eligibility not reasonably related to the fact or cause of unemployment. Department of Labor approval must be obtained prior to making any change to the questionnaire that alters the content. Such approval may be obtained by sending a copy of the requested changes to the appropriate DOL Regional Office. All requirements that SWAs normally apply to contacts with non-English speaking claimants must also be applied to contacts for BAM. If the claimant questionnaire is translated into another language, a copy must be sent to appropriate DOL Regional Office for approval.

States with dependency allowance provisions in their laws must develop a section of the questionnaire for determining eligibility for dependency allowances. Department of Labor approval for this section must be obtained by sending a copy to the appropriate DOL Regional Office.

The questionnaire must be signed by the investigator in the space provided to certify the information was obtained in accordance with the SWA requirements. If the questionnaire was not completed, an explanation, signed by the investigator must be entered on (or attached to) the signature page. In this case, it will be sufficient to retain this page only in the case folder in lieu of retaining the entire questionnaire. If a claimant fails to complete the questionnaire, then the BAM investigator must hold the claimant to the same reporting

and eligibility requirements that are used by the SWA. A claimant's return to work or exhaustion of benefits is not, in and of itself, adequate justification for failure to conduct the interview or obtain the questionnaire. If the claimant questionnaire is received after the case has been closed, then the BAM investigator must reopen the case to incorporate any new information in the case coding and/or address any additional issues, which could affect the Key Week payment accuracy.

b. Employer Interviews. Contact with all prior or current employers, with whom employment could affect the Key Week, must be made by the investigator to verify the facts of separation, base period wages, and benefit year earnings. In situations where the employer uses an agent or representative, BAM investigators should also contact the agent to verify any information received from that source.

All employer verifications may be conducted using the method determined by the state to be the most appropriate given the circumstances of the case. State BAM procedures must provide guidance to investigators on escalation strategies and timing of these procedural steps. This includes method and timing of multiple requests for information and/or escalating requests to higher authority of the employer (e.g. managers or corporate officers).

When changes in wages, earnings, or separations are detected, state law and policy should be the catalyst in determining the method of follow-up contact to be utilized. For example, in cases where there is potential fraud, SWA law and policy may require an in-person visit to obtain signatures or other documentation necessary to effect official determinations. In verifying separation information, all contacts must be made in accordance with accepted SWA fact-finding procedures. Regardless of the method of contact used, the name and position of the person providing any information must be obtained.

If a third-party represents an employer and it is state policy that all requests for information affecting UI claims must be made with this party, then BAM investigators must initially follow state procedures. However, if the third-party representative fails to respond in a timely or complete manner, then BAM investigators must contact the employer of record directly, unless prohibited by state law, rule or SWA policy. (As noted above, written policy is that policy that is distributed SWA-wide and upon request may be made available to the public.)

c. Work Search Interviews. BAM staff must investigate a sufficient number of contacts to establish whether the claimant has met the state's work search requirement. States may choose to (but are not required to) investigate additional work search contacts if they have reason to believe potential eligibility issues (for example, refusal of work, availability, etc.) could be identified. BAM investigators should follow their SWA's policy with respect to the use of Web-based job search engines and databases as an acceptable work search activity. This will vary from state to state, and may vary from claimant to claimant, and occupation to occupation. For example, if SWA policy allows the claimant to satisfy the work search requirement by registering with a job search site and posting a resume that can be disseminated to or accessed by employers, BAM investigators can verify the claimant's registration status (comparable to verification of registration with the employment service or union hiring hall). In any case, investigators need to document in the case summary the basis and method of verification.

The investigator must investigate Key Week work search contacts, including any referrals by union halls, Job Service or Labor Exchange, and private employment agencies, to verify that the contact satisfied state requirements and to uncover any potential issues bearing on eligibility and payment of benefits. While the method of contact to be used is at the state's discretion, this is an area similar to the claimant interview where tests have shown a significant loss in quality when methods other than in-person were used to obtain information.

If state law and/or policy permits job contacts made during other weeks to be applied to the Key Week, then BAM staff must investigate a sufficient number of contacts to establish whether the claimant has met the state's work search requirement. These verifications are to be made following the same guidelines as Key Week contacts. In states where law and/or policy permits work search contacts to be made by e-mail, Internet, or other electronic methods, these contacts may be verified using these same methods, which govern SWA authentication procedures.

If SWA records or the investigation indicates that the claimant is a labor union member and obtains work through that labor union, verification must be made with the labor union following the general guidelines for verifying work search contacts. This is done to detect potential issues resulting from labor union referrals to employers, referral refusals, or job refusals and to confirm that any deferrals from Job Service or Labor Exchange registration and/or work search requirements have been properly granted.

d. Third-Party Verifications. Third-party verifications are required when issues arise that could affect a claimant's eligibility.

Potential able and available issues related to a medical condition, school attendance, etc. must be verified. The method of contact to be used is at the discretion of the state. Registration with Job Service may be verified and documented by obtaining a printout or a copy of the Job Service records that indicate whether the claimant is actively registered for referral during the Key Week. State written law, policy, and procedures govern whether claimants are required to be registered with the Job Service and what constitutes registration. BAM coding should be consistent with such law, policy and procedures.

Prior verification by the state of alien status will be acceptable for BAM purposes if properly documented. If SWA records are inadequate to verify alien status, BAM investigators must conduct verification.

Interstate third-party verifications should be completed by the investigator using the method of telephone, FAX or e-mail to the extent possible. Assistance may be requested from the other state where the third party is located, if necessary.

The potential for claimant employment during the benefit year should be verified using the National Directory of New Hires. This new hire directory is mandatory under section 453A of the Social Security Act, and BAM investigators must access this resource.

e. National Directory of New Hires. Section 453(i) of the Social Security Act (SSA) [42 U.S.C 653(i)] directs the Secretary of Health and Human Services to maintain an automated database of the State Directory of New Hires records in the National Directory of New Hires (NDNH). Section 453(j)(8) SSA authorizes use of the NDNH “for purposes of administering an unemployment compensation program under federal or state law.” BAM investigators must utilize this resource as part of the audit of paid claims to detect and investigate claimant employment during the benefit year to determine its affect on the claimant’s eligibility for UI.

This requirement became effective for all states beginning with BAM batch 200801 (sampling week beginning December 30, 2007, and ending January 5, 2008). All BAM paid claims sample cases for batch 200801 forward must be matched against the NDNH using the uniform matching procedures for all state BAM operations outlined in UIPLs 3-07 and 3-07, Change 1. These procedures do not coincide with procedures followed by most Benefit Payment Control (BPC) operations, particularly with respect to the timing of the matches and the period of time for which matching is requested. States will match the SSNs of the BAM sample cases with the NDNH records that include the period from the claimant’s benefit year beginning (BYB) date (or 365 days prior to the Key Week ending date, whichever is shorter) to 30 days after the Key Week ending date of the sampled week.

For the purpose of case review and monitoring, the case file of all BAM paid claims samples selected for batch 200801 forward must include documentation that a crossmatch with the NDNH was performed, whether or not the claimant SSN matched the new hire record. BAM cases previously crossmatched to NDNH by BPC must be resubmitted using the BAM crossmatch procedures outlined in UIPLs 3-07 and 3-07, Change 1. Additionally, with appropriate advance notice, SWAs must be prepared to provide a copy of both the printout of the "SWA Input Header Record" of sample cases submitted by the BAM and a printout of the “SWA Input detail records” to demonstrate compliance with BAM NDNH crossmatch parameters.

The new hire “hits” that NDNH returns to the state should not be subjected to filters that BPC may apply. In other words, the BAM unit must have access to all records returned regardless if a week was claimed or compensated or whether the claimant reported earnings. BAM investigators must review all new hire hits from the BYB to 30 days after the Key Week and evaluate whether the “hit” has the potential to affect the Key Week payment. The important issue here is assuring coverage for the entire period from the claimant’s benefit year beginning date to the 30-day period after the Key Week ending date.

BAM must wait at least 37 days after the Key Week end to date to incorporate NDNH crossmatch results that affect the Key Week. If new hire crossmatch is pending when the case is closed, then the BAM unit ***must always reopen*** the case (reopen code 7), investigate and document the case file, record the crossmatch outcome (h1 = 4, 5, 7, 8), and code any error identified. This means that if the case is closed before 37 days after the Key Week end date, then the case must be reopened. The requirement to reopen a closed case does not depend on a “new hire hit.” It depends on the transaction times associated with the NDNH crossmatch process. BAM must wait 30 days after the Key Week end date to send its SSN to NDNH. The transmission file must request all new hires reported for that claimant from the benefit year begin date to 30 days after the Key Week end date. BAM must wait at least

five business days after its request file is transmitted to NDNH so that there is adequate time for a crossmatch response or new hire hit.

Point of Detection, BAM data element ei5, must be coded 80 through 89 for all payment errors identified through the NDNH. Codes 81 through 87 indicate the detection point at which the agency documented the payment error in their investigation subsequent to NDNH matching.

Prior Agency Action, BAM data element ei6, must reflect the actions of BPC and other agency claimstaking activities. Detection of the payment error prior to the BAM audit will be documented with the appropriate code (60 - 69 for new hire matching and 70 - 79 for wage record matching). If the BAM audit process identifies agency responsibility (including BPC activities) for not identifying the issue, failing to pursue the issue, or not following procedures, BAM investigators must document the prior agency action with the appropriate code.

Additionally, BAM investigators must identify issues associated with employer new hire reporting timeliness or failures to report new hires or Name/SSN verification problems. This requirement is not unlike other BAM procedures, where the program independently collects all information related to payment decisions and arrives at an autonomous payment determination. This BAM audit finding must be documented in Prior Employer Action, BAM data element ei7.

5. Disqualifying/Deductible Income Verifications. Verifications must be made of receipt of all remuneration that could directly affect the Key Week for which claimants could be disqualified or have benefits reduced. States should verify this income by using the method of contact determined by the state to be the most appropriate.

6. Dependency Eligibility Verifications. In states with dependency allowance provisions in their laws, the investigator must verify the dependents that were claimed. This verification must, at a minimum, consist of the methods prescribed by state law and/or policy.

7. UCFE. To better integrate federal program with states' claims processing systems, procedures for obtaining wage and separation information for both the UCFE and UCX programs have been automated to the extent possible. For the UCFE program, an Interstate Connection Network (ICON) application has been developed which states use to generate electronic and/or hardcopy requests to federal agencies, as appropriate, and to receive electronic responses. For the UCX and UCFE programs, the Claim Control File System maintained by the Federal Claims Control Center (FCCC) has been redesigned to support a more effective exchange of information and for integrity purposes.

BAM staff should work with the SWA's Federal Programs Coordinator to determine the most expedient way of obtaining wage, separation, earnings, and work search information from federal installations. If in-person verification is deemed necessary by the state, the Federal Programs Coordinator may be able to assist BAM investigators in gaining access to federal installations. Additionally, the BAM review of the original claim file must include examination of the response from the FCCC and any subsequent state reconciliation actions

to ensure that the federal wages were not used more than once to pay a claim. If no documentation is on file to indicate that the FCCC was notified of the claim, the BAM unit is to initiate a request as specified in the UCFE Handbook (No. 391) and examine the response from FCCC when it is received.

8. UCX. As mentioned above, procedures for securing UCX information has changed. UIPL 47-01 and UIPL 27-06 describe the key procedures for the electronic exchange of wage and separation information for the UCFE/UCX programs. Key UCX procedures include the following:

- The Department of Labor's copy of the "Defense Department Form 214", which is often shortened to be called a DD 214, maintained at the FCCC is now the official source of wage and separation information for use in establishing UCX entitlement and eligibility;
- The FCCC will calculate the claimant's UCX employment and wages and provide the information to SWAs; and
- The state is authorized to determine UCX eligibility under an affidavit process, using the claimant's copy four (4) of his/her DD 214, upon receipt of a notice from the FCCC that there is no DD 214 on file. This procedure will eliminate any potential delay in the determination of UCX eligibility pending receipt of the Department's copy of the DD 214.

In-person employer contacts are not to be made with the military. Verifications of military wages and separations are accomplished through review of claim documents.

When a UCX claim is taken, the SWA sends an inquiry to the FCCC. The FCCC response to each inquiry enables the SWA to (1) validate the legitimacy of the DD 214 that the claimant used to establish the claim and (2) detect potential duplicate claims. The response contains the following data:

- beginning and ending dates of military service,
- tabulation of net amount of time served,
- number of days of accrued leave paid,
- character of service, pay grade, and
- date of receipt by FCCC of any previous notice of claim filed.

BAM investigators must compare the DD 214 to the response from the FCCC to verify that the wages have not been previously assigned. The pertinent information on the DD 214 must be compared with the corresponding information on the FCCC response to ensure that the DD 214 has not been altered. Ensure that the information on the claims documents has been accurately copied from the DD 214. Also, ensure that the monetary determination was based on the appropriate Federal Schedule of Remuneration, i.e., the one in effect at the time the claim was filed.

Copies of the DD 214, the response from the FCCC, and the Federal Schedule of Remuneration should be retained in the BAM case file. If the FCCC has not been

contacted, or if potential issues have not been resolved, they must be pursued by BAM investigators.

9. Interstate Requests. Some investigations require contacting claimants, employers, or other parties in another state. The same procedures apply to interstate that apply to intrastate verifications. Interstate contacts may be conducted using the method of contact determined by the state to be the most appropriate given the circumstances of the case. If unable to obtain adequate information, assistance may be requested of the other state where necessary. However, each state has the final responsibility of obtaining all the necessary data to complete the case investigation.

10. Summary of Investigation. Each completed case must contain a Summary of Investigation. Each SWA must develop a format which includes, at a minimum, a narrative that explains the pertinent facts of the case: the basis for any decision that an error was made and any complexities of the case, e.g., difficulty obtaining information, evaluation of statements taken (i.e. how the investigator resolved a conflict in statements or why one party was found to be more credible the other), reasons for delay, or any special circumstances that occurred. Alternately, this may be satisfied by appropriate reference to explanations elsewhere in the case file. The summary should not introduce any new information. In other words, the summary must be substantiated by documentation in the case file. The investigator must sign and date the document.

The Summary should describe and call attention to agency or systemic errors identified, so that these may be addressed. The major objectives of the BAM system are to: assess the accuracy of UI payments, assess improvements in program accuracy and integrity, and, encourage more efficient administration of the UI program. The coding system is complex and supports these objectives. However, based on the errors identified and information gathered, SWAs develop plans and implement corrective actions to ensure accurate administration of state law, rules, and procedures. In this pursuit, the Summary of Investigation is a critical tool for communicating findings. Therefore, the Summary of Investigation must be able to stand on its own.

The Department encourages BAM units to communicate a summary of the results of its investigations within their agency in order to promote improved program performance and administration.

11. Appeals. All unemployment insurance appeals hearings resulting from BAM determinations affecting the Key Week must be attended by the BAM investigator responsible for obtaining the information that led to the determination. The investigator will provide testimony concerning any questions on the BAM process and the facts upon which the determination was based. When an appeals hearing is not attended by a BAM staff member, an explanation must be provided in the BAM case file.

12. Completion of Cases and Timely Data Entry. Prompt completion of investigations is important to ensure the integrity of the information being collected by questioning claimant and employers before the passage of time adversely affects recollections. Prompt entry of associated data is necessary for both the SWA and the Department of Labor to maintain

current databases. Therefore, the following time limits are established for completion of all cases for the year. (The "year" includes all batches of weeks ending in the calendar year.):

- a minimum of 70 percent of cases must be completed within 60 days of the week ending date of the batch, and 95 percent of cases must be completed within 90 days of the week ending date of the batch; and
- a minimum of 98 percent of cases for the year must be completed within 120 days of the ending date of the calendar year.

A case is complete when the investigation has been concluded as required, all official actions for the Key Week (except appeals) have been completed, the supervisor has signed off, and the results have been entered into the computer.

If a SWA's rates for completion of cases sampled for investigation for the year are less than the requirements, and it believes that such failure was attributable to reasons beyond its control, the SWA may submit a documented analysis to the DOL Regional Office requesting relief from Departmental actions (i.e., requirement to submit a corrective action plan and a footnote in the BAM Annual Report). The analysis must demonstrate that all time limits would have been met had the uncontrollably delayed cases been timely.

13. Reopening Cases. Cases may be reopened for the following reasons:

- to correct errors detected by either the SWA or federal reviewers;
- to update information as a result of appeal decisions;
- to update payment accuracy status or other information after the new hire or wage record crossmatch is completed; or
- to update payment accuracy status or other information as a result of responses from claimants, employers, or third parties after a failure to respond timely to BAM requests for information.

Case completion timeliness will be recalculated when a case is reopened to correct errors detected by the SWA. Exceptions are provided for cases reopened to update information as a result of investigation following the match of a claimant's SSN with either new hire directory records or wage records or to update information based on responses from the claimant, employer, or third party following documented failures to respond to requests for information, or to update coding following an appeal. Therefore, it is important to minimize reopening by ensuring that, to the extent possible, the data are complete and correctly entered initially.

If information requested as a result of a new hire crossmatch is pending when the case is closed, then the BAM unit ***must always reopen*** the case (Reopen Case code (ro1) = 7), investigate and document the case file, record the crossmatch outcome (Key Week Action Code (h1) = 4, 5, 7, or 8), and code any error identified. This means that if the case is closed before 37 days after the Key Week date, then the case must be reopened. **Case completion timeliness will not be recalculated.**

BAM cases that need to be reopened due to information obtained as a result of the investigation subsequent to a wage record match must be reopened using Reopen Case code (ro1) = 8, and the appropriate Key Week Action Code (h1) = 4, 5, 7, or 8 will be entered.

Case completion timeliness will not be recalculated.

If BAM requested information from the claimant, employer, or third party and that information was not provided until after the case has been closed, the case must be reopened using Reopen Case code (ro1) = 9. The case file must include documentation of the initial and follow-up requests for information to demonstrate that BAM provided an adequate period for timely response and that contact procedures had been exhausted.

For example, if the claimant responds following a period of ineligibility for a failure to report to BAM (that is, the claimant failed to complete the questionnaire by the due date) and the case has been closed or the employer (or third party) responds after case closure and supplies information that would change the case coding, then BAM unit ***must reopen*** the case using Reopen Case code (ro1) = 9, and the appropriate Key Week Action Code (h1) = 4, 5, 7, or 8 will be entered. **Case completion timeliness will not be recalculated.**

For cases reopened using codes “7”, “8”, or “9”, the appropriate Key Week Action Code (h1) ”4”, ”5”, “7”, or ”8” will be entered:

- Use Key Week Action Code 4 if the payment was proper at time of supervisor sign-off, and no Key Week error issues were detected **as a result of new hire or wage record matching or additional information obtained through late claimant, employer, or third party response.**
- Use Key Week Action Code 5 if the payment was improper at time of supervisor sign-off, but no additional Key Week error issues were detected **as a result of new hire or wage record matching or additional information obtained through late claimant, employer, or third party response.**

Example 1: The initial BAM investigation identified an A & A issue in the Key Week and the investigation of the NDNH match determines that no wages were paid during the Key Week and that there are no other issues arising from benefit year employment that affect the claimant’s eligibility for the Key Week.

Example 2: The initial BAM investigation identified a BYE issue in the Key Week and the investigation of the NDNH match verifies that the information coded based on the original investigation (amount of error, B-2 Attachment B type of error, responsibility, etc.) is correct.

- Use Key Week Action Code 7 if the payment was proper at time of supervisor sign-off, but is improper **as a result of new hire or wage record matching or additional information obtained through late claimant, employer, or third party response.**
- Use Key Week Action Code 8 if the payment was improper at time of supervisor sign-off, but additional Key Week error issues were identified or the coding of an issue identified in the initial BAM audit is revised **as a result of new hire or wage record matching or**

additional information obtained through late claimant, employer, or third party response

Example 1: The initial BAM investigation identified a reporting issue in the Key Week, and the investigation of the NDNH match verifies that the claimant was employed during the Key Week and identifies an overpayment due to BYE.

Example 2: The original BAM investigation identified a Key Week BYE issue and the investigation of the NDNH match identifies additional information that requires revision of the information coded based on the original investigation (amount of error, type of error, responsibility, etc.).