

## UCFE INSTRUCTIONS FOR STATE AGENCIES

### CHAPTER V - UCFE MONETARY DETERMINATION BY SWA

In making a determination with respect to eligibility for UCFE benefits, the SWA should apply the eligibility and disqualification provisions under State law to the findings provided by the Federal agency. When the Form ES-931 is not returned by Federal agency in 12 days, benefit eligibility will be determined based on information provided by the claimant on Form ES-935. Information received from the Federal agency after a determination has been made will be given the same consideration as information supplied by a State-UC covered employer under similar circumstances.

#### 1. Notice of Monetary Determination of UCFE Claims.

Each notice of monetary determination on a UCFE claim must show the wages reported by Federal agencies and must identify the agencies and the periods for which the wages are reported. UCFE claimants may request reconsideration or additional information from the Federal employing agency.

Notice of appeal rights of the claimant and any other interested parties must be clearly stated on the determination. Any determination by a SWA with respect to periods of service, wages and reasons for separation shall be subject to review and appeal according to State law.

a. **UCFE-UCX Joint Monetary Determination.** The joint determination must be identified as UCFE-UCX. Although Federal civilian and military service and wages are combined in a single determination, the State determination form must show separately Federal civilian employment and Federal military service. Thus, if a claimant worked for the Federal Government as a civilian and was also in active military service during the State's base period that applies to the claim, his/her Federal employment and wages should be shown as U.S. civilian and U.S. military, or other appropriate designation which identifies separately the two kinds of service.

All base year Federal civilian wages must be used in the monetary determination, even if the inclusion reduces the duration or the weekly amount of benefits to which the claimant is entitled.

#### b. Combined Wage Claims.

##### (1) **Use of Federal civilian service and Wages.**

Federal civilian service and wages may be used in a combined-wage claim in the same manner and under the same conditions as

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State-covered employment and wages. The State to which Federal service and wages are assignable may use or transfer all or part of such service and wages in the same manner as it uses, or transfers, State covered employment and wages. (Consult ET Handbook No. 399).

Once a claimant elects to file a claim under the combined wage arrangement, all employment and wages in the base period of the claim must be used to establish the combined claim. The paying State must request and use all Federal civilian service and wages in its base period. The transferring State must transfer all available service and wages even if such service and wages are not in its base period. (See ET Handbook No. 399, Appendix A, 20 CFR 609.8)

(2) **Requesting transfer of UCFE wages.** The paying State should prepare and transmit a Request for Transfer of Weeks/Wages, TC-IB4 to the transferring State and an inquiry to the FCCC.

If the paying State does not receive a prompt and complete transfer of all Federal wages and services from the transferring State, after all efforts have been exhausted, the paying State should request assistance from its appropriate regional office to expedite the transfer. (See ET Handbook No. 399, Chapter V, for additional procedures.)

(3) **Responding to a UCFE Wage Transfer Request.** The transferring State should be guided by the following procedures in transferring UCFE wages:

(a) Upon receipt of a TC-IB4, the transferring State should promptly prepare a Form ES-931 to request all employment and wages in the base period of the paying State and lag quarter or lag period wages to the date of separation.

(b) All available service and wages in the base period of the paying State shall be transferred without restriction as to their use in the determination of entitlement and payment of benefits under the provisions of the paying State's law.

(c) The "transferring State" must also include its request of Federal service and wages that fall within its base period and up to date of separation in order to determine if the claimant would be monetarily eligible for benefits under the transferring State's law and to assign and record to its wage file all assignable wages.

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(d) The transferring State should forward to the paying State copies of all UCFE forms completed by a Federal agency (ies), so that all appropriate information can be used by the paying State.

### 2. Assignment of Transferred Wages.

If Federal civilian services and wages are assignable to a transferring State, the assignment of such service and wages are transferred to the paying State if a first claim results from filing a combined-wage claim.

That portion of the service and wages that is not used to establish the combined wage claim is assignable when the combined wage claim results in a benefit year to the transferring State. Therefore, the transferring State must record to its wage file, or cause to be recorded at the appropriate time, all assignable lag period wages upon receipt of a TC-IB5 (Form IB-5) showing that a benefit year has been established.

If the combined wage claim file in the other State does not result in a benefit year, the potentially liable State which originally notified the FCCC should prepare and transmit a UCFE inquiry request to FCCC marked "CANCEL" in item 10 or the appropriate field of the computer record format.

a. **UCFE Wages not Transferable.** Federal civilian wages that have been used as the basis of a determination of entitlement or have been determined to be unavailable for use as the result of a determination issued prior to the receipt of the request for transfer may not be transferred for use on a combined-wage claim.

b. **Determination of Federal Share of Benefits on UCFE Combined-Wage Claims.** The paying State will issue a Report of Determination of a Combined Wage Claim, TC-IB5 (Form IB-5) to the transferring State of UCFE wages in the same manner as for State covered wages. When a combined wage claim is not established, the TC-IB5 (Form IB-5) will be transmitted to the transferring State returning the transferred wages.

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c. **Charging of UCFE Benefits paid on a Combined Wage Claim.** The quarterly statement of charges to a transferring State, i.e., the Statement of Benefits Paid to Combined Wage Claimants, Form IB-6, is not prepared and used to charge UCFE benefits. The transferring State is not notified of UCFE charges. UCFE benefits attributable to transferred wages are to be charged to the Federal Government by the paying State in the same manner as charges for a regular intrastate or interstate UCFE benefits paid. The Federal agency's pro rated share of benefits is calculated in accordance with procedures outlined in this Chapter.

### **3. SWA Allocation of a Lump-sum Payment for Terminal Annual Leave and Severance Pay.**

The SWA will determine, under State law, the period to which a lump-sum payment for terminal annual leave is allocable for monetary determination purposes and the effect of the payment. **If an employer has an option under State law as to the period the payment will be allocated, the United States as an employer, considers that it is allocated to the date of separation from Federal civilian employment as shown on Form ES-931.**

The explanatory note to item 2.A. of Form ES-931 instructs the Federal agency not to include as Federal civilian wages, in this item of the form, any Federal civilian severance pay reported in item 3.E. or any lump-sum payment for terminal annual leave reported in item 3.A. of the form. Thus, such a lump-sum payment or severance pay will not be included as base period and/or lag wages in item 2.A. of Form ES-931, even though, under some State laws, all or part of the lump-sum terminal leave payment will be allocated to the base and/or lag period.

**Federal civilian severance pay and lump-sum payment for terminal annual leave or severance pay are considered wages. However, these wages must not be included as base period wages in determining monetary eligibility. If these payments are deductible from the weekly benefit amount, they should be used in accordance to State Law to make such deductions.**

Item 3.A. of Form ES-931 contains the question: "Did this person receive a lump-sum payment(s) for terminal annual leave on or after the beginning date of the base period shown in items above?" If the Federal agency answers this question "Yes," by marking the appropriate box, or if the former employee is currently entitled to such payment but has not yet received it, the Federal agency will then report in item 3a of the form, for each such payment or entitlement, the beginning and ending dates of the period over which the leave would have extended had the

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worker remained in Federal civilian employment, the amount paid or payable, the date paid (if applicable), the hourly rate of pay, and the hours of duty per workday and per basic workweek. On the basis of this information (modified or clarified by information received from the Federal agency on Form ES-934), the SWA requesting the employment and wage information will determine the period to which the lump-sum payment is allocable under the State law. If any or all of the lump-sum payment is allocated by the SWA to the claimant's base period, the payment so allocated will not be available for a later claim.

Since some State laws require severance pay information, item 3.E. may be included on Form ES-931 which contains the question: Did this person receive or is he/she entitled to receive severance pay provided by any Federal law or agency-employee agreement? If the Federal agency answers "Yes," the Federal agency will then report in item 3.E, the weekly amount, total entitlement, number of weeks, and the beginning and ending dates over which the payments would have extended had the worker remained in Federal civilian employment.

Some UCFE claimants, such as WAE's (individuals who are paid "when actually employed"), will be in non-pay status (i.e., not permanently separated from employment with the Federal agencies concerned) when they file their new UCFE claims. Such claimants may be entitled to receive lump-sum payments for terminal annual leave if they should be separated from Federal civilian employment at a later date. Federal agencies are required to notify State agencies when employees who were in non-pay status and for whom Forms ES-931 have been completed, subsequently receive such lump-sum payments. However, to assure compliance with this requirement and correct treatment of lump-sum terminal-leave payments, State agencies will request Federal agencies to so notify them and will also annotate non-pay status UCFE claimant's records as to their potential entitlement to these terminal leave payments. **Claimants should be questioned as to subsequent receipt of lump-sum payments upon their future reporting to the local office, especially during UCFE periodic interviews.**

#### 4. **Effect of Backpay Award on UCFE Monetary Determination.**

A backpay award is a payment of wages covering a period of suspension or other non-pay status to which an employee subsequently is determined to be entitled. In all cases in which backpay is awarded after the Federal agency has completed and transmitted a Form ES-931 to a State, the Federal agency will inform the SWA by letter of the amount of the award, the date on which it was paid, and the period covered by the award.

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The SWA will send the Federal agency a Form ES-931 requesting a corrected report of Federal civilian wages to include the amount of backpay wages determined to be in the claimant's base period. If, under State law, a SWA would redetermine State benefit rights after a claimant received a backpay award from a covered employer, it should also redetermine a UCFE claimant's benefit rights on the same basis.

### **EXCEPTION:**

**If as the result of a Back-pay award, an UCFE overpayment is created, and state law requires the employer to recover the overpayment, the SWA will notify the Federal agency, in writing, to collect the amount overpaid from the employee.**

### **5. Federal Civilian severance Pay.**

Severance pay is not to be considered Federal civilian wages, and the period after separation from Federal civilian employment in which severance payments are made will not be considered Federal civilian service for UCFE purposes. Whether or not Federal civilian severance pay is considered disqualifying or deductible from weekly UCFE benefits will be determined in accordance with the provisions of State law.

### **6. UCFE/UCX/UC Joint Monetary Determinations and Federal Share of Cost.**

**a. Inclusion of Federal civilian or Military Service and wages, or Both in the State's Base Period.** If Federal wages (UCFE and/or UCX) are included in the State's base period, the charge to the Federal Government of the cost of unemployment compensation paid to the claimant will be based on the ratio of his/her total Federal wages to the total of all Federal and State-UC wages in the State's base period. When a charge is made to the Federal Government, all assignable Federal and State-UC wages in the State's base period must be considered in the computation. The base period used in the computation of the ratio of the Federal share of benefits paid to a claimant will be the base period of the paying State under whose State UC law the claim was paid, whether the claim is an intrastate, interstate, or combined-wage claim.

(1) State agencies should not use Form IB-6, Statement of Benefits Paid to Combined Wage Claimants, to request reimbursement for benefits attributable to Federal wages, since UCFE and/or UCX benefit costs shall be charged to the Federal Government by the paying State in the same manner as regular intrastate or interstate UCFE and/or UCX claims.

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(2) Examples:

(a) The computations listed below were made after benefits had been paid for a week of unemployment, in which the claimant was paid a \$100 weekly benefit. The computations are applicable to intrastate, interstate, and combined wage claims. The weekly benefit used is after the claimant's weekly benefit had been reduced, if any, by earnings or other income. The Federal share of benefits paid to a claimant will always be based on what the claimant was actually paid.

(b) Computations showing Federal shares of benefit cost.

<b>Examples:</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
State-UC Wages	\$4,000	\$10,000	None	\$9,000	\$500
Federal Wages	6,000	None	10,000	1,000	9,500
Total Base Period Wages	10,000	10,000	10,000	10,000	10,000
Federal Ratio of Wages	60%	None	100%	10%	95%
Weekly Benefit Amount	100	100	100	100	100
<b>Cost charged to:</b>					
Federal fund	60	None	100	10	95
State-UC Fund	40	100	None	90	5

It should be noted that in "Example D" above that \$10 would be charged to the Federal Government, even though the claimant's State UC wages may have qualified him/her for maximum benefits. Also, in "Example E," \$5 would be charged to the State, even though the claimant's State UC wages may not have qualified him/her for benefits under the State UC law.

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### 7. UCFE - Assignment to State Other Than That of Last Official Duty Station.

#### a. Covered Employment Subsequent to Federal Civilian Employment.

If, at the time of filing a first claim, the claimant resides in a State (including the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands) in which it is determined he/she worked in covered employment after separation from his/her most recent Federal civilian employment, that State is the State that his/her Federal civilian service and wages will be assigned, even though his last official station was in another State.

b. Last Official Duty Station Outside the United States. If a claimant's last official station was not within one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico or the Virgin Islands, the claimant's Federal civilian service and wages will be assigned to the State, as defined by 20 CFR 609.2(M), where he/she resides (including the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands) at the time he/she files his/her first claim, provided he/she is personally present in a State, when he/she files the first claim.

### 8. Examples of Determination of State of Assignment.

a. UCFE - Incorrect State of Assignment Adjustments. The State to which Federal civilian service and wages have been incorrectly assigned is referred to as the "incorrect State." The State to which Federal civilian service and wages should have been assigned is called the "correct State." Assignment of Federal civilian-service and wages to the incorrect State may result from:

(1) misinformation from the claimant;

(2) lack of information as to whether the claimant's employment subsequent to Federal civilian service was subject to coverage under a State UC law;

(3) an erroneous interpretation of Federal or state law in the local office; or

(4) an error by the Federal agency in the designation of official duty station.

When there is any question as to the accuracy of information given by the claimant, local office representatives should make

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every effort to check such information before completing the claim. Local office staff should review the claimant's work history; question the claimant to ensure inclusion of all Federal and non-Federal work and the State coverage of any non-Federal work; and request the central office to check the employer liability file when in doubt as to coverage of employment subsequent to Federal civilian employment.

The correction of errors should be accomplished by adjustments between the States involved, as described below.

b. **When Federal Civilian Service and Wages Have Been Assigned Incorrectly, But No Benefit Payments Have Been Made by the Incorrect State.** If no payment of benefits have been made, the adjustment may be made in substantially the same manner as when interstate claims have been sent to an incorrect State. The incorrect State should inform the correct State of the date the new claim was filed, the date of each continued (and, if applicable, additional or reopened) claim, the period covered by each continued claim, and any eligibility or disqualification information applicable to the claim.

This information should be furnished by forwarding the originals of all completed Forms ES-931 and, if applicable, Forms ES-931A and ES-934, which were received from Federal agencies in connection with the UCFE claim, and duplicate claims on interstate claim forms, identified as UCFE, for the periods claimed.

These duplicate claim forms will include a Form IB-1 for the new claim (plus, if applicable, such form(s) for any additional or reopened claim(s)) and the necessary Forms IB-2 for continued claims. The following statement should be included under "Remarks" on each claim form:

"The Federal civilian service and wage of this claimant were assigned to (State) in error. The Federal service and wages should have been assigned to (State). This claim is substituted for the claim dated (appropriate date) which was processed by this State."

The week-ending dates on the duplicate claim forms should be the same dates as those shown on the original forms, but the date of taking the claim should be the date on which the duplicate claim forms were prepared. The statement quoted above, properly signed, will be sufficient reason for predated. The correct State should establish a new UCFE claim and make a monetary determination based on the date the claim was originally filed. If the information on the completed Form(s) ES-931 and, if

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applicable, Form(s) ES-931A is not sufficient, Form ES-934, requesting additional information, will be sent to the Federal agency. The incorrect State will keep the claim record card or other appropriate documents as a record of the transfer of the claim in case questions arise later concerning the assignment of the Federal civilian service and wages.

When it is discovered that a UCFE claim was taken incorrectly as an interstate claim and that the correct State is the State in which the claim was taken, the correct State should prepare duplicate new, continued, and if applicable, additional or reopened, intrastate claim forms on the basis of entries on its claim record.

The incorrect State should forward only the reports received from Federal agencies, e.g., completed Forms ES-931 and, if applicable, Forms ES-931A and ES-934, and should invalidate the interstate claims received (Forms IB-1, IB-2, etc.). However, if a claimant has a joint UC-UCFE claim, the claimant has the same right of election as provided below.

c. **Letter of Transmittal by Incorrect State of Assignment.** A copy of the letter of transmittal of the UCFE claim to the correct State should be included in the claim file in the central office of the incorrect State as a record of the action taken in adjusting the error. The letter of transmittal should contain as much of the following information as is pertinent:

- (1) Claimant's name and SSN;
- (2) Date of new claim;
- (3) Effective date of claim in incorrect State;
- (4) List of attachments (such as Forms ES-931, ES-931A, ES-934, ES-935, IB-1, and IB-2);
- (5) Any additional information as to disqualifications relating to claimant's separation from work;
- (6) State determination of weekly and maximum benefit amounts, showing State UC and UCFE portions separately by week;
- (7) List of payments made showing State UC and UCFE portions separately by week; and
- (8) List of payments in process but not yet made, with breakdown as above.

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### 9. UCFE Claim Cancellation in Accordance With State Law.

The assignment of Federal civilian service and wages will follow Federal law, except that, if State law provides that a claim may be canceled, the same law can be applied to Federal civilian service and wages. It must be recognized that the cancellation of a claim, does not have to result in the Federal wages being assigned to another State. For example, a State law or regulation allows for the cancellation of a claim when the claim established resulted in no payment of benefits, (i.e., the claimant returned to work before his/her first compensable week). The claimant subsequently is laid-off and due to higher base year wages elects to cancel the original claim and file for a more recent benefit year. This would be allowed because of State law or regulation.

It must be remembered that Federal law (5 U.S.C. 8504) must be followed predicated on last official duty Station or **most recent covered employment** subsequent to Federal service. ( Also, refer to 20 CFR 609.8(b)).

However, UCFE wages and service assigned to a State may be transferred to another State where such transfer is necessary for the purpose of a combined-wage claim.

**NOTE: Assignment to State of Last Official Duty Station.** Federal civilian service and wages will be assigned to the State (including the District of Columbia, the Commonwealth of Puerto Rico or the Virgin Islands) in which the employee had his/her last official duty station in Federal civilian employment before filing a "first claim" as defined above, when the most recent employment before filing a first claim was Federal civilian service. This rule applies regardless of the duration of the most recent Federal civilian employment, even though transfer of official station to the State in question was so recent as to be subsequent to the base period. **The "official duty station" is a determination made by the Federal agency.**