ET HANDBOOK

U.S. Department of Labor
Employment and Training Administration
Office of Workforce Security

No. 399: Unemployment Compensation Claims Filed Under The Interstate Arrangement For Combining Employment And Wages

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This Handbook contains procedures for handling unemployment compensation claims filed under the Interstate Arrangement for Combining Employment and Wages and supersedes E.S. Manual, Part V, Section 5900.

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SECTION I - GENERAL ADMINISTRATION

1. Introduction. The Interstate Arrangement for Combining Employment and Wages (CWC Arrangement), published in the Code of Federal Regulations at 20 CFR Part 616 (reprinted as Appendix A of this Handbook), implements the requirements of Section 3304(a)(9)(B) of the Internal Revenue Code (IRC) of 1986.

This arrangement became effective with all claims (to establish a benefit year) filed after December 31, 1971, establishing a system whereby an unemployed worker with covered employment and wages in more than one State could elect to combine wages from all such States to satisfy the wage qualification requirements of the paying State, or as a means of increasing the weekly or maximum benefit amount.

As a condition of State law approval under Section 3304(c), IRC, after 1971, all States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands (beginning in 1978) are required to participate in this arrangement as prescribed by the Secretary of Labor in consultation with the State unemployment compensation agencies.

Periodically, the Secretary reviews the operation of this arrangement and proposes such amendments to the arrangement as deemed necessary or appropriate. Any State unemployment compensation agency or the Interstate Conference of Employment Security Agencies (ICESA) may propose amendments to the arrangement. Any proposal shall constitute an amendment to the arrangement upon approval by the Secretary in consultation with the ICESA and publication in the Federal Register.

2. Roles of States in Wage Combining. When a claim is filed under this arrangement, a State may play one or more of three different roles: filing State, paying State, or transferring State, although usually the filing State and paying State Will be the same. Each role carries its distinctive obligations, which are discussed later in this Handbook. When the Combined-Wage Claim is filed under or transferred to the Interstate Program, a State may play the additional role of agent or liable State (See ET Handbook No. 392).

Canada does not participate in the CWC Arrangement and therefore is never a paying, transferring or liable State under this arrangement. When a Combined-Wage Claim is filed in Canada (acting as an agent State), the paying (liable) State is the State in which the claimant last worked in covered employment and qualifies on the basis of combining.

3. Adoption of Rules, Regulations, Procedures and Forms. State agencies must operate in accordance with the rules and regulations as prescribed by the Secretary of Labor in 20 CFR Part 616, and follow all procedures and use forms as prescribed pursuant to 20 CFR 616.4.

Forms and procedures specific to this arrangement may not be altered without the prior written approval of the U.S. Department of Labor.

All rules, regulations, and standards prescribed by the Secretary with respect to intrastate and interstate claims, as appropriate, will apply to claims filed under this arrangement unless they are clearly inconsistent with the CWC Arrangement.

4. The Relationship of Wage-Combining to Other UI Claims and Specified Allowances. The Combined-Wage Claimant may participate in all regular unemployment insurance (UI) benefit and allowance programs to the same

extent as any other claimant subject to the law of the paying State. A Combined-Wage Claimant has the same rights to Federal-State extended benefits, State-financed additional benefits, Federally financed supplemental benefit extensions, TRA, DUA, etc., as any other claimant under paying State's law. The Combined-Wage Claimant also has the same right to benefits while in State approved training programs as any other claimant under the paying State's law.

State agencies must take all precautions to avoid duplication of unemployment compensation payments under this arrangement with benefits or allowances under other programs.

5. Resolution of Disagreements. The Secretary will resolve any disagreements among States concerning the operation of the CWC Arrangement with the advice of the duly designated representatives of the State unemployment compensation agencies. For this purpose, the ICESA is the designated representative.

6. Measurement of Benefit Payment Promptness. For purposes of compliance with the promptness requirements of Section 303(a)(1) of the Social Security Act (SSA), as set forth in the Benefit Payment Promptness Standard published at 20 CFR Part 640, promptness of payments issued under this program is measured as follows:

a. Intrastate Combined-Wage Claim. When the filing State is the paying State, promptness of first payments is measured under the intrastate criteria, specified at 20 CFR 640.5 as follows:

87 percent in 14 days - waiting week States
87 percent in 21 days - non-waiting week States
93 percent in 35 days - all States

b. Interstate Combined-Wage Claim. When the claim is filed under the Interstate Benefit Payment Plan, promptness of first payments is measured under the interstate criteria specified at 20 CFR 640.5 as follows:

70 percent in 14 days - waiting week States
70 percent in 21 days - non-waiting week States
78 percent in 35 days - all States

7. Record Retention and Disposition. Records of Combined-
Wage Claims should be retained and disposed of in accordance with State law and practices for the disposition of records of intrastate claims and interstate liable claims (State laws and practices must agree with 41 CFR 29-70.203 through September 30, 1988 and with 29 CFR 97.42 thereafter (53 FR 8034, 8069)).

SECTION II - RIGHTS AND RESPONSIBILITIES OF THE COMBINED WAGE CLAIMANT

1. Rights of a Combined-Wage Claimant. An unemployed individual who has covered employment and wages in more than one State has the right to combine such wages and employment in the base period of one State subject to the following restrictions:

a. An individual may not elect to file a combined-wage claim if the individual has established a benefit year under any State or Federal unemployment compensation law and the benefit year has not ended and there is an available benefit balance.

b. For the purpose of this arrangement, a claimant will not be considered to have unused benefit rights under a law if:

(1) rights to all benefits based on such benefit year have been exhausted;

(2) rights to benefits have been postponed for an indefinite period (see item d) or for the entire period in which benefits would otherwise have been payable; or

(3) rights to benefits are affected by the application of a seasonal restriction.

c. An individual who is eligible on the basis of a combined-wage claim in the filing State cannot file a valid interstate combined-wage claim to increase monetary entitlement. In order to file an interstate combined-wage claim, the claimant must be ineligible in the filing State.

d. A disqualification solely because a claimant is not able to work or not available for work shall not be considered an indefinite postponement.

e. An individual who has a disqualification on an existing benefit year with a benefit balance and has had sufficient employment and earnings to satisfy the requalification requirements cannot elect to file a combined wage claim. The individual must continue to file claims against the existing benefit year until benefits have been exhausted or are otherwise unavailable as a result of an indefinite postponement or application of a seasonal restriction.

SECTION II - RIGHTS AND RESPONSIBILITIES OF THE COMBINED WAGE CLAIMANT

f. An individual who elects to file a combined-wage claim must use all employment and wages from all States that are available for use during the base period of the paying State.

g. The claimant may not select a paying State but must accept the paying State as defined under 20 CFR 616.6(e) (Appendix A.6.(e)).

h. If the paying State or any transferring State makes any decision, monetary or nonmonetary, adverse to a combined wage claimant's interest, such State must provide the claimant with a written determination and the right to request reconsideration or an appeal in accordance with the law of such State.

i. The claimant has the right to withdraw from a combined-wage claim any time before the monetary determination of the paying State becomes final. The claimant's decision to withdraw need not be supported by reasons, provided that (1) any benefits paid under the combined claim are repaid in full, or, (2) the claimant authorizes the State(s) against which a claim is being filed to withhold and forward to the former paying State a sum sufficient to repay such benefits.

j. An individual may not claim extended benefits if eligible to file a new combined-wage claim.

SECTION III - RIGHTS AND RESPONSIBILITIES OF THE FILING STATE

1. Identifying the Potential Combined-Wage Claimant. Any claimant who has worked in two or more States in the preceding two (2) years is a potential combined-wage claimant. The combined-wage claimant may be identified at any stage of the claims-taking or paying procedures up to the time of exhaustion of regular benefits (including regular sharable) or the end of the benefit year, whichever occurs first. It is incumbent upon interviewers to avoid any needless delay by identifying potential combined-wage claimants as early as possible in the claims process.

Reviewing the claimant's work and claims history covering the preceding 24 months, at the time of the initial claim, will serve to identify the potential combined-wage claimant immediately. Those States which do not generally obtain a complete work history should have on their initial intrastate claims forms the question, "Have you worked in any other State(s) within the past 24 months?" If the answer is "Yes," further details should be elicited to assist the claimant in determining if there are advantages in combining wages.

If the potential combined-wage claimant is not identified at the completion of the new claim application, a second chance occurs at the Benefit Rights Interview (BRI) when the monetary determination is explained to the claimant. Any monetary determination which (1) indicates insufficient wage credits to qualify for benefits, or, (2) provides less than the maximum benefit amount payable under the law of the issuing State, provides a clue which should be explored to determine if the claimant has available wages in another State for use in a combined-wage claim.

2. Review of Work History. A claimstaker must review the claimant's work history and identify quarterly base period wages and the weeks (days) of work as accurately as possible.
This action must be taken in order to assist the claimant in identifying their potential claims and the advantages and disadvantages of wage-combining or filing against separate eligibility. If the claimant has W-2 form(s), check stubs, or other wage records, these records will be helpful in arriving at the approximate earnings in each calendar quarter.
If no records are available, the estimates may be based upon the claimant's recollection of his wage rates, and the dates of employment.

3. Explaining Types of Claims Available to Claimant. When the earnings pattern of the claimant has been charted on the basis of the information available, the claimstaker should consult the Handbook for Interstate Claimstaking for the base period, wage qualification and separation adjudication requirements of those States in which the claimant worked.

The options available to the claimant and the consequences of each claim should be fully explained. The claimant is entitled to know the advantages and disadvantages of each option in order to select the claim which is most advantageous. The claimant should be cautioned that the options being explained are based on estimates derived from the wage and separation information supplied by claimant.

The eligibility and disqualification provisions of each State in which the claimant worked that appear to be pertinent to the claimant should be explained.

For example, some States adjudicate all base period separations and impose a reduction in the benefit award. If the claimant appears to have separate monetary eligibility in such a State, the possibility of disqualification and/or benefit reduction should be explained.

The final decision of what claim to file is the claimants.

Generally, State laws do not provide for cancellation of regular claims. Therefore, if the claimant does not elect to file a combined-wage claim, the claimant's record should clearly indicate that the combined-wage option was explained during the initial claim interview and that the type of claim selected was the claimant's choice.

a. Separate Eligibility. If the claimant has employment and earnings in a State that are equal to the qualifying requirements of that State, separate eligibility may exist in that State. If so, the claimant may wish to file against a single State in order to keep wages earned in other State(s) available for future use. Remember that if the employment and earnings preceded the effective date of a prior claim, the State may require covered employment under its law to satisfy the requalifying requirement for a subsequent benefit year.

When estimating earnings remember that wages earned in States with quarterly wage reporting systems are generally available for the quarter during which they were paid, while wages earned in States with request reporting systems are generally available for the period for which they are earned.

b. Combined-Wage Claim. Any claimant who has available employment and wages in more than one State may file a combined-wage claim, except if there is an existing claim on file with benefits available.

If an individual is separately eligible in more than one State for amounts less than a combined claim would yield, it may still be to the individual's advantage to file against the separate eligibility if he/she expects to be unemployed for a period in excess of the combined-wage claim duration.

If a combined-wage claim is filed, all employment and wages in the base period of the paying State must be used to determine the claim. Once the claimant elects to file under the combining arrangement, no wages in the base period of the paying State may be omitted from consideration in establishing the claim.

To protect the claimant against lapses in memory concerning his/her work history and resulting improper decisions, the claimant has the right to withdraw from a combined-wage claim at any time before the paying State's monetary determination becomes final, provided the claimant repays any benefits that have been paid or authorizes the State against which a claim is filed to offset the overpayment. These are the requirements for withdrawal and must not be overlooked in allowing the claimant to exercise the withdrawal option.

4. Filing Interstate Combined-Wage Claims. If, after wage-combining, the filing State finds that it cannot become the paying State because the claimant fails to qualify for benefits on the basis of combining, it must immediately:

a. Return all employment and wages to the transferring State(s).

b. Send an IB-1, indicating the effective date of the invalid intrastate claim, to the State where the claimant was last employed in covered employment.

c. Complete sufficient IB-2s to cover all weeks claimed.

d. Certify that the claimant is ineligible in the filing State and is filing under the wage combining arrangement with that State serving as paying State.

When a claimant qualifies for benefits against the filing State on the basis of combining, but has wages in another State that pays a higher weekly or maximum benefit amount, the claimant cannot elect to file a CWC against the other State.

5. Interpreting the Monetary Determination. The monetary determination is the first factual basis for evaluating eligibility for a combined-wage claim and should be carefully analyzed with the claimant.

If it is believed that some employment and wages have been omitted, or that wages were erroneously reported, the claimant should be assisted in requesting reconsideration or filing an appeal, depending on the procedure of the State involved and the reason that the wages were not included.

Nonmonetary issues may preclude the inclusion of wages on the monetary determination. If such is the case, the State that denied the use of the wages must issue an appealable nonmonetary determination. Anytime wages are unavailable for transfer as a result of a nonmonetary determination, the determination must have been issued prior to the receipt of the request for transfer of wages.

If the claimant receives a nonmonetary determination, he/she should be assisted in exercising the right of appeal.

Once the accuracy of the monetary determination has been established, the relative merits of the potential types of claims for which the claimant appears to qualify should again be considered. In some cases, the transfer of wages from a State using a different base period will adversely affect a future claim against that State. The claimant should weigh the advantages of immediate additional benefits against the loss of a potential future claim.

6. Canada as the Filing State. Canada does not participate in the CWC Arrangement as a paying State. If a claimant wishes to file a combined-wage claim in a local office in Canada, the claim will be taken as an interstate claim. Canada should complete a Form IB-1 indicating that the claim is being filed under this arrangement and send it to the State agency in which the claimant most recently worked in covered employment. In such case, the paying State is the last State in which the claimant worked in covered employment and is eligible on the basis of combining.

SECTION IV - RIGHTS AND RESPONSIBILITIES OF THE PAYING STATE

1. Establishing an Intrastate Combined-Wage Claim. A claim may be established as a combined-wage claim by a paying State either initially or after that State issues a monetary determination for less than maximum benefits with respect to a claim filed against that State separately.

Because of the complexities of wage-combining and the difficulty of estimating benefit entitlement, the claimant is allowed a second chance to elect a combined-wage claim after the receipt of the monetary determination, which is the first factual information upon which to base the decision.

2. Establishing an Interstate Combined-Wage Claim. Unlike a claim filed in the paying State, where the claim may be established as a combined-wage claim after the original monetary determination is issued, an interstate combined-wage claim is filed as such initially. Generally, interstate combined-wage claims are filed as backdated claims. In such case, the interstate combined-wage claim must be effective as of the same date as the original combined-wage claim.

A State other than the filing State should not establish a combined-wage claim unless the filing State has certified that the claimant is ineligible on the basis of combining in the filing State.

When the potential paying State is other than the filing State, that State will determine if the claimant qualifies for unemployment benefits under its law on the basis of combining wages and employment. If it determines that the claimant cannot qualify under its law, it will so notify the claimant and the agent State. This notification will be made in the form of an appealable determination.

The State will immediately return all employment and wages to the transferring State(s). It will also send copies of the claimant's previously completed certification forms or duplicate IB-2s, based on the claimant's records, to cover the weeks for which the claimant filed to the claimant for use in filing a substitute claim.

3. Requesting Wages From Transferring States. The first step in processing a combined-wage claim by a potential paying State is to request the transfer of wages from all States in which the claimant's work history indicates wages in the base period of the paying State.

All weeks and/or wages in all States that are available in the base period of the paying State must be requested and used on the CWC claim even though not all are needed for maximum benefit entitlement.

a. Form IB-4, Request for Transfer of Wages
(OMB Approval no. 1205-0170)

Back of form

b. Purpose and Use. Form IB-4 should be used by the paying State to request the transfer of all available weeks/wages from a transferring State. This form should be sent by the paying State to each State in which the claimant has employment or wages at any time during the base period of the paying State. The transferring State will provide the information requested and return it to the paying State.

c. Preparation of Form IB-4 by Paying State. The paying State should prepare sufficient copies of Form IB-4 to meet the requirements of its control procedures and send an original to the appropriate office of each transferring State.

When the paying State is also the filing State, Form IB-4 should be prepared when the initial claim is filed and sent to the transferring State on the same day. If the paying State receives the initial claim on an interstate basis, procedures should ensure the prompt preparation and sending of IB-4s to all potential transferring States. Each item must be completed accurately and legibly to prevent delays in processing. Following are instructions for completing some items on Form IB-4.

(1) Item 7 () UCFE () UCX - Check the appropriate box(es) to indicate that transfer of Federal civilian and military service and wages is being requested. These boxes are not intended to indicate the type of claim being filed.

When either of these boxes is checked, complete item 13 or 14, as appropriate.

(2) Item 7, Effective Date of Claim. This item must be completed on all requests. The paying State's procedure for dating claims should be followed in determining the effective date of the claim. Backdating is allowed in accordance with the policy of the paying State. If an interstate combined-wage claim is received, backdating to the effective date of the original combined-wage claim must be honored.

(3) Item 9, Work History in Transferring State. This section need not be completed except when requesting wages that are not required to be on file in the transferring State (i.e., request reporting States, lag quarter wages, Federal, State, etc.).

When completion of this item is necessary, enter the applicable information for each employer in the transferring State if any portion of the employment falls within the paying State's base period. The claimant's work history for the entire base period of transferring State must also be provided if that State must request employment and wage information upon receipt of the transfer request, even though all or part of such employment is not within the base period of the paying State. This is necessary in order for the State to determine whether the claimant would be separately monetarily eligible in the transferring State.

(a) Employer Name. Enter the business name of the claimant's place of employment.

(b) Payroll Address. Obtain an exact street or other mailing address from the claimant. For Federal civilian employment, this information for the Federal agency is entered on the reverse side of Form IB-4 in item 13.

(c) Where Work Performed. The location at which the work was performed is important in obtaining wage reports,

especially if the employer has several locations in the transferring State. This space may also be used to furnish any additional information to identify the claimant and the employer, such as, the worker's time clock or badge number, department, or other identifying data. If the claimant was in maritime employment, show the name of the vessel on which the claimant worked. If additional space is needed, use the "Remarks" section on the reverse side of the form.

(d) Type of Work Performed. Enter the title of the job description of the work performed by the claimant for the employer listed.

(e) Work Period, from - to. Enter the exact dates of employment including the month, day, and year, for the beginning and ending dates of employment with each employer. If the claimant had more than one period of employment, enter each period of employment in separate boxes.

If more space is needed for claimant's work history, use an additional form IB-4, completing the identifying data at the top of the form.

(4) Items 13 and 14. When requesting the transfer of Federal civilian or military service and wages, the paying State should obtain necessary information from the claimant to complete the items under the applicable heading, UCFE or UCX, on the reverse side of Form IB-4.

4. Federal Civilian and Military Employment and Wages. The Federal rules, regulations and procedures governing the assignment and definition of Federal civilian or military service and wages apply to such wages when used under the combined-wage arrangement. In determining whether a claimant is qualified for benefits, Federal service and wages, as defined by Federal law, must be included if they are available during the base period of the paying State. Such service and wages must be transferred and used for combined-wage purposes in the same manner as State-covered employment (see ET Handbook 384, Chapters XVII and XVIII and ET Handbook 391, Chapter XV).

a. Use of UCFE Wages. When an individual has UCFE wages during the base period, care must be taken to assure that wages are assigned to the appropriate State. All wages prior to the effective date of the first claim filed are assignable at the time the first valid claim is established. Subsequent State covered employment in the State of residence changes the State of assignment to the State of residence. Subsequent employment in the filing State does not change the State of assignment unless the filing State is also the State of claimant's residence. Refer to ET Handbook No. 384 for additional information pertaining to State of assignment.

b. Use of UCX Wages. When an individual has UCX wages during the base period, care must be taken to assure that they are used only to the extent allowed. Whether the CWC claim is for a first or subsequent benefit year(s), benefits are payable on the basis of UCX wages for a maximum of thirteen times the weekly benefit amount (13 X WBA) per benefit year.

When requesting a transfer of UCX wages, prepare a Form IB-4 in the usual manner and complete the information in Item 14, as appropriate. It is not necessary to attach a copy of the DD 214. The transferring State will request a copy from the claimant, if necessary.

(1) Redetermination to Delete UCX Wages. When an individual has UCX employment and wages during the base period of the combined-wage claim, such wages are subject to the 13 X WBA per benefit year limitation on duration of benefits. When benefits based on such wages are exhausted, a redetermination of the individual's entitlement must be issued (including a Form IB-5 to the transferring State) deleting the UCX wages from the monetary entitlement.

Redetermination of a CWC claim may result in irregular charges with respect to benefits paid. Suspension of the use of military wages after 13 X WBA may result in a participating State bearing 100% of the cost of benefits paid after the UCX exhaustion if all remaining wages are from a single State. Therefore, total charges to a State may exceed the "maximum chargeable amount" shown on the original Report of Determination of Combined-Wage Claim, Form IB-5.

5. Employment and Wages Earned by an Alien. Under Section 3304(a)(14), FUTA, the wage credits used to establish monetary entitlement must be earned while the alien is legally authorized to work in the United States.

Effective November 6, 1986, under Section 245A of the Immigration and Nationality Act, as added by the Immigration Reform and Control Act (IRCA) of 1986, , the Immigration and Naturalization Service (INS) may confer the status of "lawfully admitted for temporary residence" upon aliens who entered the United States before January 1, 1982, and applied for an adjustment of status during the application period.

Effective December 22, 1987, Section 902 of the Foreign Relations Authorization Act (FRAA) established another class of alien who is eligible for adjustment of status to that of "lawfully admitted for temporary residence" if the alien satisfies the criteria as outlined in Section 902, FRAA, and applied for an adjustment of status by December 22, 1989.

The status of "lawfully admitted for temporary residence" provides for the alien to receive work authorization upon application for amnesty. Therefore, for purposes of Section 3304(a)(14), FUTA, this status granted under IRCA or FRAA confers retroactive lawful presence effective November 6, 1986, and December 22, 1987, respectively, as aliens would have been eligible for amnesty if INS' application process had been operational on the effective dates of the provisions. SESAs should use all wages earned on and after November 6, 1986, or December 22, 1987, as appropriate, in the determination of entitlement for aliens that applied for and have been granted lawful temporary residence status.

a. Determining if Wages can be Used. The paying State must examine the alien's legal status during the base period to determine whether the wages, including wages from a transferring State, may be used for computing entitlement. If it is determined that the claimant was not legally authorized to work in the United States at the time the base period wages were earned, including the test of retroactive lawful status, the affected wages are not used in the determination of entitlement under this arrangement. The paying State must issue an appealable determination denying the use of such wages. Wages determined to have been illegally earned are not returned to the transferring State.

b. Redetermination of Legal Status. An alien previously granted lawful temporary residence status but subsequently denied amnesty and work authorization terminated, is not available for work in the United States effective with the date of the denial. The denial of amnesty does not invalidate the prior legal status retroactively. Therefore, any benefits paid for weeks prior to such denial and the termination of authorization to work are not

overpaid. Any benefits paid for weeks after the denial of the amnesty are overpayments and are subject to the recovery and waiver provisions of the State law. The reason for the overpayment is that the claimant is no longer legally available for work after the denial of legal residence status in the United States.

6. Use of Wages From an Educational Institution. When an individual has employment and wages from an educational institution during the base period of the combined-wage claim, such wages are subject to the between terms denial provisions of the paying State's law.

If the wages have been transferred from another State and benefits based on such wages are suspended or denied, the wages are not returned to the transferring State unless no benefit year is established under this arrangement or the benefit year is invalidated upon the withdrawal of the combined-wage claim.

Combined-wage claims which include wages subject to a between terms denial and additional wage credits, which when separately determined result in monetary eligibility, may result in irregular charges to participating States with respect to benefits paid. Suspension of the use of such wages during prescribed periods may result in a participating State bearing 100% of the cost of benefits paid during the suspension period if all remaining wages are from a single State. Therefore, total charges to a State during a benefit year may exceed the "maximum chargeable amount" shown on the original determination.

7. Use of Wages Earned as a Professional Athlete. When an individual has employment and wages from participation in professional sports activities, including training and preparation, during the base period of the combined-wage claim, such wages are subject to the between seasons denial provisions of the paying State's law. If the wages have been transferred from another State and benefits based on such wages are denied, the wages are not returned to the transferring State unless no benefit year is established or the claimant withdraws the request for a combined-wage claim.

Combined-wage claims which include wages subject to a between seasons denial and other employment and wage, which when separately determined result in monetary eligibility, may result in irregular charges with respect to benefits paid. Suspension of the use of wages earned in employment such as a professional athlete, during prescribed periods, may result in a participating State bearing 100% of the cost of benefits paid during the suspension period if all remaining wages are from a single State. Therefore, charges to a State may exceed the "maximum chargeable amount" shown on the original determination.

8. Use of Wages Subject to Seasonal Restrictions. When wages that are subject to a seasonal restriction in the transferring State are transferred for use on a combined-wage claim, such wages are transferred without restriction as to their use. The paying State's law will apply to the use of such wages and the payment of benefits based on such wages. Charges to the transferring State are based on its pro rata share of the wages used in the determination.

When "seasonal" wages earned in a State are combined with non-seasonal wages from another State and benefits based on such monetary determination are paid during the period of the

seasonal restriction, charges to a participating State must be based on its pro rata share of the wages used in the determination regardless of the period for which benefits are paid.

When "seasonal" wages are deleted from the combined-wage monetary determination during prescribed periods and the claimant remains entitled on the basis of the remaining employment and wages, this determination may result in a change in the charges to a participating State. A participating State may bear 100% of the cost of benefits paid during the suspension period if all remaining wages are from a single State.

Due to the variations in cost sharing that can occur when certain types of wages are used to establish a combined-wage claim, total charges to a State during the benefit year may exceed the "maximum chargeable amount" shown on the original determination and any redetermination.

9. Review of Transferring State's Reply. Upon receipt of the completed Form IB-4, the paying State should examine the reply to determine what action to take as a result of the information received. The first consideration in reviewing a reply from a transferring State is to determine whether the claimant has a right to file a combined-wage claim. An existing benefit year with available unused benefits in any State precludes the filing of a combined-wage claim. If the transferring State responds that the claimant has an existing benefit year with a balance and benefits have been postponed subject to the claimant meeting specific requalifying requirements, the paying State must determine if the claimant has met the requirements in the transferring State before establishing a combined-wage claim.

When an erroneous combined-wage claim has been taken because of insufficient or incorrect information at the time of filing, such as, where the claimant has an existing benefit year on file in a transferring State with benefits available, the claimant must be advised by the paying State that claims must be filed against that State until benefits are no longer available. The paying State will cancel the combined-wage claim and return as unused any wages and employment which were transferred from any transferring State. If the claimant insists on filing under the combined-wage arrangement, the paying State must issue an appealable determination denying benefits under the requirements of 20 CFR 616.7(a).

10. Monetary and Nonmonetary Determinations. When a State has determined that the claimant is eligible to file a combined-wage claim under its law, all base period employment and wages in that State and all other States must be the basis of the monetary and nonmonetary determinations.

Information pertaining to weeks of work at a specified minimum earnings rate may not be available at times and, even though the paying State requires this figure in its computation, it may not be able to obtain such information from each transferring State. The claimant may have sufficient weeks or hours of work in other States to qualify or the individual's gross wages may be prima facie evidence that the individual has worked at least the minimum number of weeks or hours. If necessary, the paying State should adjust the employment and wage data as best it can to provide an equitable computation.

a. Monetary Determination. The claimant must be given a notice of monetary determination with the right to request reconsideration or appeal as provided in the law of the paying State. The claimant has the right to appeal any aspect of the monetary entitlement.

b. Nonmonetary Determination. The paying State must make nonmonetary determinations under its law and issue appealable notices to the claimant. The issue may stem from employment in the paying State or any transferring State. With regard to nonmonetary issues connected with employment in a transferring State, the limitations specified in 20 CFR 616.8 (see Appendix A, Item 8) apply.

c. Combined-Wage Claimant's Right of Appeal. The claimant may exercise appeal rights against either the paying State or a transferring State depending on which agency issued the determination which the claimant considers adverse to his/her interest (20 CFR 616.8(d). In either case the appeal should be filed within the protest period allowed by the State that issued the determination.

When a claimant appeals a determination after the protest period has expired, include a statement as to the reason the appeal is late.

11. Notice of Determination of Combined-Wage Claim. In addition to the monetary determination issued to the claimant, the paying State must furnish a notice to each transferring State when a combined-wage claim is determined or redetermined. This applies to Regular, Extended and Additional Benefit determinations and redeterminations or such determinations pertaining to any other benefits, resulting from the combined-wage claim, payable under the paying State's law.

Generally, transferred wages that are not used in the combined-wage determination result in a return of such wages to the transferring State. However, in some cases, under paying State provisions, some base period weeks and/or wages from a participating State are not used in the calculation of entitlement. Such wages, although not used in the calculation, are considered used in the determination and cannot be returned to a transferring State or used to establish a future benefit year. When such wages are from a transferring State, an explanation including the dollar amount should be provided in the "Other Relevant Information" section of the IB-5.

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a. Report On Determination Of Combined-Wage Claim, Form IB-5 (OMB approval no. 1205-0170)

(1) Purpose and Use. The Form IB-5 is used by the paying State to notify a transferring State when there is an eligible or ineligible determination of a claim filed under the wage combining arrangement. It advises the transferring State of the disposition of the wages transferred and its potential charges for benefits paid.

(2) Preparation. The paying State prepares a Form IB-5 for each State which transferred wages for use in the combined-wage claim. If the paying State does not have an automated file which stores the data as transmitted on the IB-5, a duplicate copy of the notice should be prepared for the paying State's records.

The paying State must prepare and distribute an amended Form IB-5 whenever it issues a redetermination on a combined-wage claim. Complete the IB-5 as follows:

(a) Complete all identifying information for the claimant and the claim, as appropriate.

(b) Item 1 - Check the appropriate box to indicate disposition of the transferred wages.

(c) Item 2 - Enter the weekly benefit amount and the maximum benefit amount for which the claimant is eligible.

(d) Item 3 - Participating States. List all States, including the paying State, whose wages were included in the calculation of monetary entitlement.

Wages Used. List separately the amount of wages from each participating State that were included in the calculation of monetary entitlement.

% Total Wages Used. Compute and enter the percentage that the participating State's wages included in the calculation of entitlement bear to the total wages included in the determination. Each percentage must be computed to three or more decimal places. If the total of the percentages does not equal 100%, the paying State should adjust the percentage to equal 100 by adding any fraction to the percentage of the State contributing the greatest portion of the base period wages, including UCFE and UCX. The total of the percentages entered in this column must equal 100 percent.

When Federal civilian or military services and wages are used in the combined-wage determination, the percentages are calculated in the same manner as for State wages (see ET Handbooks 384 and 391 for additional information).

Maximum Chargeable. Apply the prorated percentage figure for the participating State to the maximum benefit amount payable to derive the amount of benefits chargeable to the State. The total of the amounts entered in this column must equal the maximum benefit amount shown in Item 2.

(e) Other Relevant Information. Enter any information about the claim which would be useful to the transferring State.

(f) Enter in the appropriate space the name and address of the paying State. Complete the form by entry of the signature and title of the authorized paying State employee.

b. Issuing an Eligible Report on Determination of Combined-Wage Claim, Form IB-5. The paying State

must send the transferring State a Form IB-5 showing: the weekly and total benefit amounts to which the claimant is entitled; the total wages used in the computation; the percentage of the total wages contributed by each transferring State; and, the maximum amount chargeable to each transferring State.

The maximum benefit amount for which a transferring State is potentially liable is derived by proration of benefit costs in the following manner:

1) Determine what percentage of the total wages used in the calculation of the claimant's benefit award was contributed by each participating State;

2) Calculate such percentage(s) to no less than three decimal places; and,

3) Apply such percentage(s) to the maximum benefit amount.

When some wages are not used in the calculation of entitlement (such as: earnings for weeks that are required to be omitted because of an earnings requirement or that are allowed to be omitted because of low earnings), enter that additional amount of wages in the "other relevant information" section of the Form IB-5 (or the comments section of the automated IB-5). Such wages are not returned to the transferring State and they are unavailable for future use.

c. Issuing an Ineligible Report on Determination of Combined-Wage Claim, Form IB-5. When a combined-wage claimant is issued an ineligible monetary determination, a Form IB-5 must be issued to each transferring State returning all transferred wages.

When an ineligible monetary determination is issued by the filing (paying) State, and a substitute interstate claim, combined-wage or regular, is being filed, the IB-5 returning the wages should be transmitted immediately. When no substitute claim is being processed, transferred wages should be returned when the determination is final.

When an ineligible monetary determination is issued as a result of an interstate combined-wage claim and there is an additional potential paying State(s) against which a claim can be filed, all wages should be returned on the date of the ineligible monetary determination.

d. Returning Unused Wages. The paying State must return all unused wages to the transferring State. Transferred wages may be returned unused by the paying State for various reasons: insufficient wages to establish a combined-wage claim, no increased entitlement due to combining, improper paying State, or combined-wage claim withdrawn by claimant.

The date that wages are returned is determined by the detail of the specific claim. When the claimant indicates that no appeal or request for reconsideration will be filed, the wages should be returned immediately. When the wages are necessary for a claim filed against another State, they should be returned immediately. When there does not appear to be a need for the transferring State to have access to the wages, they should be returned when the determination is final.

12. Redetermination of Combined-Wage Claim. When a redetermination is issued on a combined-wage claim, the paying State must notify the transferring State(s) by preparing an amended Form IB-5. When the paying State receives corrected wage information from a transferring State and no redetermination is issued, a written explanation should be provided to the transferring State.

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13. Notice of Determination of Extended or Additional Benefits. When an Extended Benefit, Additional Benefit or any other benefit extension claim is established, the paying State must notify the transferring State(s) of its liability with a Report on Determination of Combined-Wage Claim, Form IB-5 identified with "EB", "AB" or as appropriate. ("Additional Benefits" as used in this section is "Additional Compensation" defined at 20 CFR 615.2.)

14. Withdrawal of Combined-Wage Claim. Before the paying State's monetary determination becomes final, a claimant may withdraw a combined-wage claim. The claimant need not provide any reason for the withdrawal. There are many factors, not known until after the monetary determination, that would induce a prudent person to withdraw a request that wages be combined:

a. The claimant may receive greater benefits by filing a claim against a State other than the paying State;

b. Additional wage credits may become available in the near future which will substantially increase benefit entitlement; or,

c. The use of wages from a transferring State may jeopardize a future claim against wages earned in that State.

To withdraw a combined-wage claim, a claimant must sign a written request to the paying State which includes a reimbursement agreement if any payments have been issued. If benefits have been paid, the claimant is required, as a condition of withdrawal under 20 CFR 616.7(d) (Refer to Appendix A), to make arrangements to repay such benefits. This may be done by cash payments or by offset. If a claim is being filed against another State and the benefits have not been repaid by cash, the claimant must sign an authorization to that State to reimburse the combined-wage paying State. The withdrawal memorandum must include the agreement to reimburse the paying State by one method or the other.

If the agreement is an authorization for another State to reimburse the paying State from benefits payable to the claimant, a copy of the memorandum must be sent to that State and the paying State's records annotated to indicate this action.

15. Continuing Eligibility of Combined-Wage Claimant. Once the monetary determination becomes final, the claimant becomes subject to the law of the paying State. The claimant's rights and obligations should be fully explained. Any eligibility issues should be acted upon in the same manner as for other claimants of the paying State, except that the paying State may not adjudicate an issue which has previously been adjudicated by the transferring State. Such exception does not apply, however, if the transferring State's determination of the issue resulted in making the combined-wage claim possible by postponing or denying the claimants unused benefit rights for an indefinite period, or for the entire period in which benefits would otherwise be payable.

16. Determination of Overpayment - Credit to Transferring State. When a recoverable overpayment determination is issued to a combined-wage claimant, transferring States should be relieved of charges associated with such benefits. If charges have been billed to the transferring State, credits for such charges should be shown on the Form IB-6 issued at the end of the quarter in which the overpayment determination is issued.

17. Collecting Overpayments for Other States. Benefits payable under this arrangement must, upon the transferring State's request, be withheld to recover an overpayment in a transferring State unless the law of the paying State

prohibits such recovery. CWC benefits may also be withheld to recover benefit overpayments to the claimant made under any State or Federal law. If Federal benefits are withheld to recover an overpayment of State benefits, the requesting and recovering State must have a Cross-Program Offset Agreement with the Secretary of Labor. Refer to ET Handbook 392, Section IX for procedural requirements.

a. Recovery of Outstanding Overpayment in Transferring State. Except as provided in (d) below, the paying State must honor any transferring State's overpayment recovery request, unless its law prohibits such recovery, if the transferring State certifies: (1) that the determination of overpayment was issued not more than 3 years prior to the effective date of the combined-wage claim; (2) that such determination has become final; and, (3) repayment by the claimant is legally required and enforceable under the law of the transferring State.

If there are two or more transferring States requesting recovery of an overpayment, the amount recovered shall be divided in proportion to the wages each contributed to the monetary determination. The amount offset each week should be the same as would be offset for such overpayments (fraud or non-fraud) under the paying State's law and should not be limited to that portion of the combined-wage benefits attributable to wages transferred from the State(s) for which the overpayment is being offset.

The paying State may honor any request for recovery from a transferring State without regard to the date of the original overpayment determination, if the requesting State certifies that the determination is final and recoverable under its law. Refer to ET Handbook 392, Section IX for procedural requirements.

The paying State must offset any outstanding overpayment in a transferring State(s) prior to honoring a request from any other State under any interstate or cross-program agreement; except, authorized reimbursement of an overpayment resulting from cancellation of a prior combined claim takes precedent over both (refer to (b) below). Benefits withheld during a quarter should be forwarded to the transferring State no later than 30 days following the end of the quarter or credited against the Statement of Benefits Paid to Combined Wage Claimants, Form IB-6, for the quarter in which the benefits were withheld.

b. Recovery of Overpayment Resulting From Cancellation of Combined-Wage Claim. If any benefits have been paid on a combined-wage claim, a condition for withdrawal is the claimant's agreement to reimburse the paying State. The claimant can either immediately reimburse the benefits to the paying State or authorize the State against which a substitute claim is filed to deduct the amount due from benefit payments to which he/she is entitled and forward the amount to the paying State. In this situation, the States may or may not have a paying-transferring State relationship. If they do, such recoveries may be included on the quarterly statement of benefit charges, Form IB-6. If not, paying State must, unless prohibited by law, honor this recovery request prior to one from any other State, including transferring States.

c. Recovery of Overpayments under the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA). Any overpayment offset under the IRORA shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of regular unemployment compensation paid by such State. Therefore, the paying State receiving an Interstate Request for Overpayment Recovery must follow procedures relating to notice to the claimant and opportunity for a hearing as apply to any determination under its law.

d. Order of Priority for Overpayment Offset. The paying State should recover overpayments in the following order:

(1) Overpayment of benefits resulting from the cancellation of a combined wage claim for which reimbursement authorization has been received;

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(2) Overpayment of benefits, State or Federal, under the paying State's law;

(3) Overpayment of benefits under a transferring State's law;

(4) Overpayment of benefits paid by another State under any State or Federal law.

18. Charging of Benefits Paid. All benefits paid, including additional and extended benefits, and dependency allowances, as a result of a combined-wage claim are charged to the participating States. Charges to a transferring State should reflect the same percentage of benefits paid as the transferred wages used in the determination bear to the total wages used in the determination.

a. Obtaining Reimbursement for Federal Share of Benefits Paid. The paying State should request reimbursement from the Federal account for sharable compensation, as defined at 20 CFR 615.2(i), based only on the amount of benefits attributable to the paying State's wages. Sharable compensation attributable to a transferring State's wages are reimbursable to the transferring State. The determination of sharable compensation for the first payment of extended (or regular sharable) benefits will be made under the law of the State requesting reimbursement.

19. Notice to Transferring State of Benefits Paid. At the end of each calendar quarter, the paying State must send a Statement of Benefit Charges, Form IB-6, to each transferring State showing the charges to such State for benefits paid on all combined-wage claims in the preceding calendar quarter.

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a. Statement of Benefits Paid to Combined-Wage Claimants, Form IB-6. (OMB approval no. 1205-0170)

b. Purpose and Use

(1) Benefit Charges. Form IB-6 will be used to notify each transferring State of the charges to that State for benefits paid to claimants under the wage-combining arrangement.

(2) Overpayment Recovery. Form IB-6 is also used by the paying State to notify the transferring State of a credit toward its reimbursement for overpayments recovered or established during the calendar quarter.

(a) Overpayments Recovered for Transferring State. The Form IB-6 should reflect credit for all amounts offset during the quarter as a result of a recoverable overpayment in a transferring State if payment of the amount collected has not previously been forwarded to the transferring State.

(b) Recoverable Overpayments Established in Paying State. The Form IB-6 should reflect credit for any benefits previously charged to the transferring State, when such benefits have been determined overpaid and recoverable and the determination is final during the quarter.

(3) Adjustments to Charges. Form IB-6 is also used to notify the transferring State of any credits toward its reimbursement for adjustments to charges previously reimbursed. Such as, when a redetermination decreases the transferring State's pro rata share of benefit cost or the paying State's determination of a recoverable overpayment becomes final during the quarter.

c. Completing Form IB-6. The paying State must prepare a separate statement for each transferring State being charged for benefits paid or credited with overpayments recovered in the calendar quarter involved. Prepare three (3) copies of the Statement. Send the original and one (1) copy to the transferring State and retain one (1) copy for the paying State's records.

The name and address of the paying State should be shown in the space provided. The Statement is to be signed and dated by the authorized employee of the paying State whose title will be shown below the signature. If there are any special instructions which the paying State wishes to have followed (e.g., if the reimbursement check is to be made payable to another department of the paying State), such instructions should be included on the Statement or stated in an accompanying memorandum.

(1) Column A, Social Security Account Number. Enter the claimant's social security account number. This column should be listed in numerical order according to the last four digits of the number.

(2) Column B, Name. Self-explanatory.

(3) Column C, Benefit Year Ending Date. Enter the appropriate benefit year ending date relative to the benefit charges shown.

(4) Column D, Amount Paid Including Offset. Enter the total amount of benefits actually paid to the claimant and the amount withheld to recover an overpayment (columns E, F, and G).

(5) Column E, Amount Charged - Regular Claim. Enter the amount of chargeable regular benefits paid or used for overpayment offset.

(6) Column F, Amount Charged - Regular Sharable. When the paying State is in an Extended Benefit Period, after the individual had received payments or offset credits totalling twenty-six times the weekly benefit amount and the payment or offset was for a week of unemployment occurring during the benefit year, enter the amount of chargeable regular benefits paid or used for overpayment offset for such weeks, including the amount shown in column H. The amount shown in this column should be the total amount of benefits attributable to the transferred wages. Any reimbursement from the Federal account will be requested by the transferring State.

(7) Column G, Amount Charged - Extended Benefits. Enter the amount of chargeable extended benefits paid or used or overpayment offset, including the amount shown in column H.
The amount shown in this column should be the total amount of benefits attributable to the transferred wages. Any reimbursement from the Federal account will be requested by the transferring State.

(8) Column H, Amount Charged - Extended Benefits (Regular Sharable) First Payment. Enter the amount charged in column F or G that represents the first payment of regular sharable or extended benefits. If both regular sharable and extended benefits are paid during the quarter, enter the amount charged for the first week of regular sharable only. The first payment amount means the amount paid for the first payable week regardless of whether it is a partial or full payment.

(9) Column I, Amount of Overpayment Recovered. Enter the amount of benefits withheld to recover an outstanding overpayment in the transferring State that was not previously remitted and is being credited toward the amount to be reimbursed.

(10) Totals. All totals. Self-explanatory.

(11) Net Amount to be Reimbursed. Enter the amount of the total of Columns E, F, and G minus the total of Column I.

(12) Net Amount of Credit. Enter the amount by which Column I exceeds the total of Columns E, F, and G. Attach a check made payable to the transferring State in this amount.

20. Settlement of Disagreements. A State with an unresolved disagreement should notify its Employment and Training Administration Regional Office, by memorandum which details the issue. Copies of all prior correspondence concerning the issue should accompany the memorandum to the Regional Office.

The Employment and Training Administration will attempt to resolve the issue. In the event that mediation fails, the Employment and Training Administration will consult with the ICESA, and will thereafter issue a decision.

SECTION V - RIGHTS AND RESPONSIBILITIES OF THE TRANSFERRING STATE

1. Responding to Wage Transfer Request. To implement the requirements of this arrangement, States with quarterly wage reporting requirements should have means to obtain wage data which are not yet reportable. To avoid delays in processing combined-wage claims, transferring States should act promptly to obtain wage data and hold employers to tight schedules for their replies. Requests for transfer of wages should not go unanswered until such wages are reportable under the regular quarterly reporting system.

A transferring State must transfer all of the claimant's available employment and wages which are within the base period of the paying State (refer to Section V, Item 3).

When employment and wages are transferred, the transferring State must establish controls to assure that such employment and wages are not again used in the calculation of entitlement for a subsequent claim.

2. Promptness of Wage Transfer Response. Due to differences in paying and transferring States' base periods, wage data for two base periods must be obtained in many cases to identify transferable wages and to determine if the claimant is separately eligible in the transferring State. States must assure that wage reporting requirements meet this need.

Upon receipt of a Request for Transfer of Wages, Form IB-4 (or automated TC-IB-4R), the State must promptly obtain and transfer all employment and wages in the base period of the paying State.

If for any reason the transferring State cannot complete and return the IB-4 to the paying State promptly, the transferring State should notify the paying State and explain the reason for the delay. The transferring State should not delay a response while an extensive field investigation is conducted regarding an employer who has not reported wages or for whom the State has no record.

When wages are unavailable for transfer as a result of a determination issued prior to the receipt of the transfer request, the transferring State should complete the IB-4 response and attach all pertinent documents.

For purposes of wage transferring, "promptly" has been defined under the Quality Appraisal system as:

a. Within 7 days - when the transferring State's law requires quarterly wage reporting of the wages requested;

b. Within 14 days - when the transferring State's law requires wages to be reported upon request; and, when request reporting of wages is necessary because the wages requested for transfer are not yet reportable or such wages are not covered by the quarterly wage reporting requirement.

3. Determining Availability of Wages. Records should be reviewed to determine if for any reason wages should not be transferred. Although the claimant may have employment and wages in the base period of the paying State and wages are on file, such wages may be unavailable for transfer. If wages are not subject to the transfer restriction outlined in 3(a) below, they must be transferred upon request.

SECTION V - RIGHTS AND RESPONSIBILITIES OF THE TRANSFERRING STATE

The transferring State should not attempt to determine if wages have been illegally earned. The determination as to the validity of the wages will be made by the paying State. When a State has been notified by a paying State that wages earned in the transferring State have been determined to have been illegally earned, the transferring State should take steps to assure that such wages are unavailable for future use.

a. Employment and Wages Not Transferable. When the claimant has an unexpired benefit year on file in the transferring State and there is an available balance (i.e., there is no existing disqualification, postponement or other applicable restriction), wages will not be transferred. Wages must not be transferred under the following conditions:

(1) Such wages have been transferred to another State and not returned unused;

(2) Such wages have been used in the transferring State as the basis of a monetary determination which established a benefit year;

(3) Such wage credits have been cancelled or determined unavailable to the claimant as a result of an appealable determination issued by the transferring State prior to the receipt of a request for transfer.

A transfer of employment and wages must be withheld under 3.a(3) above if the latest determination or decision imposes or upholds the cancellation or if the determination is in the process of appeal or reconsideration. If such determination or decision is later reversed in favor of the claimant on reconsideration or appeal, the employment and wages must be transferred if appropriate. The claimant's records should be noted in a manner to trigger contact with the paying State to determine if the wage transfer is necessary.

4. Transferring Federal Civilian Employment and Wages. Federal civilian employment and wages may be transferred for use in a combined-wage claim in the same manner and under the same conditions as State-covered employment and wages. The State to which the employment and wages are assignable may transfer all or part of such employment and wages, as appropriate.

Upon receipt of a request for transfer of Federal civilian service and wages, the transferring State must obtain all Federal service and wages in the base period of the paying State, transferring State and any lag period for assignment purposes. All such wages are assignable to the transferring State if a combined-wage claim filed in the paying State results in a benefit year being established. All employment and wages in the base period of the combined-wage claim are transferable to the paying State without restriction as to their use in the combined-wage claim determination.

5. Transferring Federal Military Service and Wages. Federal military service and wages may be transferred for use in a combined-wage claim in the same manner and under the same conditions as State-covered employment and wages. The State to which the employment and wages are assigned may transfer all or part of such employment and wages, as appropriate, without restriction as to their use in the combined-wage claim determination.

Upon receipt of a request for transfer of military service and wages, the transferring State must transfer all such available service and wages in the base period of the paying State. Lag period military wages should have been calculated and entered onto wage files at the time of the "first claim filed" which assigned the wages. If such employment and wages were not calculated and filed at that time, the transferring State must take care to use the appropriate "schedule" to determine the wages available for transfer.

SECTION V - RIGHTS AND RESPONSIBILITIES OF THE TRANSFERRING STATE

6. Transferring Employment and Wages From an Educational Institution or Earned by a Professional Athlete. When transferring wages from an educational institution or wages earned by a professional athlete, the transferring State must identify the type of wages as the use of such wages are subject to denial during periods prescribed under the paying State's law.

7. Completing the Wage Transfer Response. The IB-4 response involves a series of responses to questions in addition to the request for all employment and wages in the base period of the paying State. In order for the transferring State to respond to all questions, a number of claimant files must be reviewed to obtain information pertaining to the claimant, and the State must determine if the claimant would be separately eligible in the transferring State if a claim were so filed with the same effective date.

The transferring State must indicate whether the claimant is monetarily eligible for a claim against that State with the same effective date as the combined-wage claim. If so, the reply must include the weekly and maximum benefit amounts to which the claimant would be entitled. All transferable employment and wages within the base period of the paying State must be reported on Form IB-4. When a transferring State discovers employment and wages in the paying State's base period from an employer that is not identified on the request, such employment and wages must also be reported on the IB-4 response.

When employment and wages are transferred that were earned in a type of employment, where it is required that the paying State make a determination as to their use during certain periods, or request reimbursement for benefits paid from other than the transferring State (e.g., earnings in educational institutions, professional sports, UCFE, UCX, etc.), such employment and wages must be appropriately identified. All employment and wages should be reported on the reply in the manner specified by the paying State whenever possible. When the transferring State cannot supply the exact number of weeks or hours in which the claimant had some work, the transferring State should provide as much information as possible. The paying State will adjust the information as best as it can to provide the most equitable computation and distribution of charges.

a. Separate Eligibility in the Transferring State. When Form IB-4 is received by the transferring State, it should be processed for a monetary determination as if a claim had been filed by the claimant against that State with the same effective date.

If the claimant would be monetarily eligible for benefits in the transferring State on a claim filed with the effective date shown on Form IB-4, the transferring State should report this information in Item 10 to the paying State by checking the "yes" box. If "yes" is checked, the weekly and maximum benefit amounts should then be shown in the spaces provided. This information is necessary in order for the paying State to further advise the claimant of available options based on better information than that available at the time of the initial claim interview.

Monetary eligibility in a transferring State may not be cited as grounds for refusal to transfer wages which are available.

b. Existing Benefit Year in the Transferring State. The transferring State must determine if the claimant has an unexpired benefit year on file and the status of such claim and respond to the questions pertaining to the existence of a benefit year and the availability of benefits accordingly.

SECTION V - RIGHTS AND RESPONSIBILITIES OF THE TRANSFERRING STATE

(1) If the claimant has an existing benefit year with a balance remaining, the question should be answered "yes." If the benefit balance is available (there is no existing postponement, seasonal restriction or disqualification prohibiting the payment of benefits), the benefit availability question is answered "yes" and no employment and wages are transferred. The request for wages should be returned indicating the benefit year ending date, weekly benefit amount, maximum amount available.

(2) When the claimant has an existing benefit year with a balance remaining and one of the conditions described in (a), (b), and (c) below exists, the question pertaining to the existence of a benefit year is answered "yes", but the benefit availability question is answered "no". All unused employment and wages in the base period of the paying State must be transferred. Conditions of (a), (b), or (c) below may not be cited by a transferring State as grounds for refusal to transfer wages which have not been used to establish a benefit year.

(a) Claimant's rights to such benefits have been postponed for an indefinite period, other than where the claimant is unable to work or unavailable for work. (For example, a nonmonetary disqualification denies benefits for the duration of unemployment and/or until a specified amount of wages are earned in subsequent employment.)

(b) Claimant's rights to benefits for the remainder of the benefit year have been denied. (This occurs when benefit rights are cancelled or postponed because of a fraud or misconduct determination.)

(c) Claimant's rights to benefits are postponed or denied by the application of a seasonal provision.

When wages are transferred in accordance with this procedure and item 3.b.2(a) applies, the transferring State should advise the potential paying State of the requalification requirements. Enter this information in the "Remarks/ Comments" section of the Form IB-4 or the TC-IB-4R, as applies. This information will be used by the paying State to determine if it should proceed with the CWC claim or if an additional claim is in order.

(3) When there is an existing benefit year with no remaining benefit balance, all available employment and wages which are in the paying State's base period are transferable and Form IB-4 should be answered accordingly.

c. Total Base Period Wages. The transferring State should transfer all available employment and wages in the base period of the paying State, except when there is an existing benefit year in the transferring State with an available balance.

When employment and wages earned and/or paid, as appropriate under the transferring State's law, during the base period of the paying State are not transferable or have been cancelled as a result of a determination issued prior to the receipt of the request for transfer, a copy of the determination should be forwarded to the paying State. When a TC-IB-4R is used, the paying State should be advised that a copy of the determination is being forwarded.

The transferring State must not deny a transfer of employment and wages on the basis of a determination issued after the receipt of a wage transfer request.

SECTION V - RIGHTS AND RESPONSIBILITIES OF THE TRANSFERRING STATE

If the transferring State is aware of employment and wages with covered employers under its law, but such employment was not listed, if required, on the Form IB-4, the transferring State should include such employment and wages in the transfer response.

8. Correcting a Wage Transfer Response. Upon discovery that employment and wages have been inaccurately transferred, a transferring State has an obligation to inform the paying State of the correct employment and wages. The transferring State may not request the return of the erroneously transferred wages, nor may it demand a redetermination based on the corrected amount. The paying State's rules govern actions taken in response to corrected information.

9. Requesting Recovery of Overpayments. The transferring State should request the paying State to recover outstanding overpayments. The paying State is required to honor requests as described in this section unless recovery is prohibited by its law. Except, recovery must not be by cross-program offset unless the transferring State and paying State have a reciprocal agreement with the Secretary of Labor.

a. Overpayment Created by Withdrawal of Combined-Wage Claim. In rare cases, a transferring State may have been the paying State on a prior withdrawn combined-wage claim. If so, when the claimant does not repay in cash, authorization for repayment by the new paying State (or liable State) is required as a condition of the withdrawal. The transferring State should transmit a copy of such authorization and over-payment determination to the new paying State.

b. Date of Overpayment Determination Within 3 Years of the Effective Date of the Combined-Wage Claim. A transferring State may request recovery of an outstanding overpayment from benefits to which the combined-wage claimant is entitled. The transferring State must certify that the overpayment determination was issued within 3 years of the filing of the combined-wage claim; that repayment by the claimant is legally required and enforceable under the law of the transferring State. A copy of the determination should be included with the recovery request.

c. Date of Determination in Excess of 3 Years From the Date of the Combined-Wage Claim. Section 303(g) of the Social Security Act provides for any State to request recovery of any overpayment where collection is enforceable under its law. Because of the transferring State - paying State relationship, such requests may be in the same manner as those under 8 b. However, unless both States are participating in a reciprocal recovery agreement to participate in interstate overpayment recovery the paying State may refuse the request (Refer to ET Handbook No. 392, Section IX).

d. Updating Overpayment Records in the Transferring State. If Form IB-6 contains information showing that the paying State has received and credited overpayment recoveries to the account of the transferring State, care should be taken to assure the proper crediting of such payment to the overpayment records of the claimant.

10. Reimbursing the Paying State. Within 45 days after the end of each calendar quarter, the transferring State should receive a statement of charges from the paying State on all combined-wage claims for which benefits were paid in prior quarter. The statement may also include credits for recovery of a transferring State overpayment by offset from a combined-wage claimant's benefits during the quarter.

SECTION V - RIGHTS AND RESPONSIBILITIES OF THE TRANSFERRING STATE

Charges to the transferring State should be the same percentage of the total benefits paid as the transferring State's wages used in the calculation of monetary entitlement represent to the total wages which were used in the calculation.

Since some States distribute benefit charges at the time the payment is made, the charges may be a few cents over or under the results obtained by applying the computed percentage to the full amount shown in column D. In such cases, the transferring State should reimburse the paying State as billed.

Reimbursement in the amount shown at the bottom of Form IB-6 is due and payable upon receipt of the charge statement. The check should be drawn on the transferring State's unemployment funds benefit account and forwarded to the paying State promptly. For reimbursement purposes, "promptly" is defined under the Quality Appraisal system as within 45 calendar days from the date of receipt of the statement of charges.

When charges cannot be accounted for, the agencies involved should immediately attempt to settle the dispute. If the dispute cannot be settled and reimbursement accomplished prior to the next billing cycle, the transferring State should reimburse all undisputed charges.

11. Settlement of Disagreements. A State with an unresolved disagreement should notify its Employment and Training Administration Regional Office, by memorandum which details the State's concern. Copies of all prior correspondence concerning the issue should accompany the memorandum to the Regional Office.

The Employment and Training Administration will attempt to resolve the issue. In the event that mediation fails, the Employment and Training Administration will consult with the ICESA, and will thereupon issue a decision.

APPENDIX A - INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES, 20 CFR 616

1. (616.1) Purpose of Arrangement. This arrangement is approved by the Secretary under the provisions of section 3304(a)(9)(B) of the Federal Unemployment Tax Act to establish a system whereby an unemployed worker with covered employment or wages in more than one State may combine all such employment and wages in one State, in order to qualify for benefits or to receive more benefits.

2. (616.2) Consultation with the State Agencies. As required by section 3304(a)(9)(B), this arrangement has been developed in consultation with the State unemployment compensation agencies. For purposes of such consultation in its formulation and any future amendments, the Secretary recognizes, as agents of the State Agencies, the duly designated representatives of the Interstate Conference of Employment Security Agencies.

3. (616.3) Interstate Cooperation. Each State agency will cooperate with every other State agency by implementing such rules, regulations and procedures as may be prescribed for the operation of this arrangement. Each State agency shall identify the paying and the transferring State with respect to Combined-Wage Claims filed in its State.

4. (616.4) Rules, Regulations, Procedures, Forms -Resolution of Disagreements. All State agencies shall operate in accordance with such rules, regulations, and procedures, and shall use such forms, as shall be prescribed by the Secretary in consultation with the State unemployment compensation agencies. All rules, regulations and standards prescribed by the Secretary with respect to intrastate claims will apply to claims filed under this arrangement, unless they are inconsistent with the arrangement. The Secretary shall resolve any disagreement between State agencies concerning the operation of the arrangement, with the advice of the duly designated representatives of the State agencies.

5. (616.5) Effective Date. This arrangement shall apply to all new claims (to establish a benefit year) filed under it after December 31, 1971.

6. (616.6) Definitions. These definitions apply for the purpose of this arrangement and the procedures issued to effectuate it.

APPENDIX A - INTERSTATE ARRANGEMENT FOR COMBINING EMPLOYMENT AND WAGES, 20 CFR 616

(a) State. "State" includes the States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico, and includes the Virgin Islands effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

(b) State Agency. The agency which administers the unemployment compensation law of a State.

(c) Combined-Wage Claim. A claim filed under this arrangement.

(d) Combined-Wage Claimant. A claimant who has covered wages under the unemployment compensation law of more than one State and who has filed a claim under this arrangement.

(e) Paying State. (1) The State in which a Combined-Wage Claimant files a Combined-Wage Claim, if the claimant qualifies in that State on the basis of combined employment and wages.

(2) If the State in which the Combined-Wage Claimant files a Combined-Wage Claim is not the Paying State under the criterion set forth in paragraph (e)(1) of this section, or if the Combined-Wage Claim is filed in Canada or the Virgin Islands then the paying State shall be that State where the Combined-Wage Claimant was last employed in covered employment among the States in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages: Provided, that, this paragraph (e)(2) shall read as if the Virgin Islands were not referred to therein, effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

(f) Transferring State. A State in which a Combined-Wage Claimant has covered employment and wages in the base period of a paying State, and which transfers such employment and wages to the paying State for its use in determining the benefit rights of such claimant under its law.

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(g) Employment and Wages. "Employment" refers to all services which are covered under the unemployment compensation law of a State, whether expressed in terms of weeks of work or otherwise. "Wages" refers to all remuneration for such employment.

(h) Secretary. The Secretary of Labor of the United States.

(i) Base period and benefit year. The base period benefit year applicable under the unemployment compensation law of the paying State.

7. (616.7) Election to File a Combined-Wage Claim

(a) Any unemployed individual who has had employment covered under the unemployment compensation law of two or more States, whether or not he is monetarily qualified under one or more of them, may elect to file a Combined-Wage Claim. He may not so elect, however, if he has established a benefit year under any State Federal unemployment compensation law and:

(1) the benefit year has not ended, and

(2) he still has unused benefit rights based on such benefit year. 1/

(b) For the purposes of this arrangement, a claimant will not be considered to have unused benefit rights based on a benefit year which he has established under a State or Federal unemployment compensation law if:

1/ The Federal-State Extended Unemployment Compensation Act of 1970, Title II, P.L. 91-373, section 202(a)(1), limits the payment of extended benefits with respect to any week to individuals who have no rights to regular compensation with respect to such week under any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to such week under the unemployment compensation law of Canada.
This provision precludes any individual from receiving any Federal-State extended benefits with respect to any week for which he is eligible to receive regular benefits based on a Combined Wage claim. (See section 5752, part V of the Employment Security Manual.)

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(1) He has exhausted his rights to all benefits based on such benefit year; or

(2) His rights to such benefits have been postponed for an indefinite period or for the entire period in which benefits would otherwise be payable; or

(3) benefits are affected by the application of a seasonal restriction.

(c) If an individual elects to file a Combined-Wage Claim, all employment and wages in all States in which he worked during the base period of the paying State must be included in such combining, except employment and wages which are not transferable under the provision of 5908 B.2/

(d) A Combined-Wage Claimant may withdraw his Combined-Wage Claim within the period prescribed by the law of the paying State for filing an appeal, protest, or request for redetermination (as the case may be) from the monetary determination of the Combined-Wage Claim, provided he either:

(1) repays in full any benefits paid to him thereunder, or

(2) authorizes the State(s) against which he files a substitute claim(s) for benefits to withhold and forward to the paying State a sum sufficient to repay such benefits.

(e) If the Combined-Wage Claimant files his claim in a State other than the paying State, he shall do so pursuant to the Interstate Benefit Payment Plan.

8. (616.8) Responsibilities of the Paying State.

(a) Transfer of employment and wages - payment of benefits. The paying State shall request the transfer of a Combined-Wage Claimant's employment and wages in all States during its base period, and shall determine his entitlement to benefits (including additional benefits, extended benefits and dependents' allowances when applicable) under the provisions of its law based on employment and wages in the

2/ Refer to 616.9(b)

paying State, if any, and all employment and wages transferred to it hereunder. The paying State shall apply all the provisions of its law to each determination made hereunder, even if the Combined-Wage Claimant has no earnings in covered employment in that State, except that the paying State may not determine an issue which has previously been adjudicated by a transferring State. Such exception shall not apply, however, if the transferring State's determination of the issue resulted in making the Combined-Wage Claim possible under 616.7(b)(2). If the paying State fails to establish a benefit year for the Combined-Wage Claimant, or if he withdraws his claim as provided herein, it shall return to each transferring State all employment and wages thus unused.

(b) Notices of determination. The paying State shall give to the claimant a notice of each of its determinations on his Combined-Wage Claim that he is required to receive under the Secretary's Claim Determinations Standard and the contents of such notice shall meet such standard. When the claimant is filing his Combined-Wage Claim in a State other than the paying State, the paying State shall send a copy of each such notice to the local office in which the claimant filed such claims.

(c) Redeterminations. (1) Redeterminations may be made by the paying State in accordance with its law based on additional or corrected information received from any source, including a transferring State, except that such information shall not be used as a basis for changing the paying State if benefits have been paid under the Combined-Wage Claim.

(2) When a determination is made, as provided in paragraph (a) of this section, which suspends the use of wages earned in employment with an educational institution during a prescribed period between successive academic years or terms or other periods as prescribed in the law of the paying State in accordance with section 3304(a)(6)(A)(i)-(iv) of the Internal Revenue Code of 1954, the paying State shall furnish each transferring State involved in the combined-Wage Claim an adjusted determination used to recompute each State's proportionate share of any charges that may accumulate for benefits paid during the period of suspended use of school wages. Wages

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which are suspended shall be retained by the paying State for possible future reinstatement to the Combined-Wage Claim and shall not be returned to the transferring State.

(d) Appeals. (1) Except as provided in paragraph (d)(3) of this section, where the claimant files his Combined-Wage Claim in the paying State, any protest, request for redetermination or appeal shall be in accordance with the law of such State.

(2) Where the claimant files his Combined-Wage Claim in a State other than the paying State, or under the circumstances described in paragraph (d)(3) of this section, any protest, request for redetermination or appeal shall be in accordance with the Interstate Benefit Payment Plan.

(3) To the extent that any protest, request for redetermination or appeal involves a dispute as to the coverage of the employing unit or services in a transferring State, or otherwise involves the amount of employment and wages subject to transfer, the protest, request for redetermination or appeal shall be decided by the transferring State in accordance with its law.

(e) Recovery of prior overpayments. If there is an overpayment outstanding in a transferring State and such transferring State so requests, the overpayment shall be deducted from any benefits the paying State would otherwise pay to the claimant on his Combined-Wage Claim except to the extent prohibited by the law of the paying State. The paying State shall transmit the amount deducted to the transferring State or credit the deduction against the transferring State's required reimbursement under this arrangement. This paragraph shall apply to overpayments only if the transferring State certifies to the paying State that the determination of overpayment was made within 3 years before the Combined-Wage Claim was filed and that repayment by the claimant is legally required and enforceable against him under the law of the transferring State.

(f) Statement of benefit charges. (1) At the close of each calendar quarter, the paying State shall send each transferring State a statement of benefits charged during such quarter to such State as to each Combined Wage Claimant.

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(2) Except as provided in paragraphs (c)(2), (f)(3), and (f)(5) of this section, each such charge shall bear the same ratio to the total benefits paid to the Combined-Wage Claimant by the paying State as the claimant's wages transferred by the transferring State bear to the total wages used in such determination. Each such ratio shall be computed as a percentage to three or more decimal places.

(3) Charges to the transferring State shall not include the costs of any benefits paid which are funded or reimbursed from the Federal Unemployment Benefits and Allowances account in the U.S. Department of Labor Appropriation, including: (i) Benefits paid pursuant to 5 U.S.C. 8501-8525; and (ii) Benefits which are reimbursable under Part B of Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567).

(4) With respect to benefits paid after December 31, 1978, except as provided in paragraphs (f)(3) and (f)(5) of this section, all transferring States will be charged by the paying State for Extended Benefits in the same manner as for regular benefits.

(5) With respect to new claims establishing a benefit year effective on and after July 1, 1977, the United States shall be charged directly by the paying State, in the same manner as is provided in paragraphs (f)(1) and (f)(2) of this section, in regard to Federal military service and wages assigned or transferred to the paying State and included in Combined-Wage Claims in accordance with this part and Parts 609 and 614 of this chapter. With respect to new claims effective July 1, 1977, prior law shall apply.

9. (616.9) Responsibilities of the Transferring State

(a) Transfer of Employment and Wages. Each transferring State shall promptly transfer to the paying State all employment and wages the Combined-Wage Claimant had in covered employment during the base period of the paying State. Any employment and wages so transferred shall be transferred without restriction as to their use for determination and benefit payments under the provisions of the paying State's law.

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(b) Employment and Wages not transferable. Employment and wages transferred to a paying State by a transferring State shall not include:

(1) Any employment and wages which have been transferred to any other paying State and not returned unused, or which have been used in the transferring State as basis of a monetary determination which established a benefit year.

(2) Any employment and wages which have been cancelled or are otherwise unavailable to the claimant as a result of a determination by the transferring State made prior to its receipt of the request for transfer, if such determination has become final or is in the process of appeal which is still pending. If the appeal is finally decided in favor of the Combined-Wage Claimant, any employment and wages involved in the appeal shall forthwith be transferred to the paying State and any necessary redetermination shall be made by such paying State.

(c) Reimbursement of the Paying State. Each transferring State shall, as soon as practicable after receipt of a quarterly statement of charges described herein, reimburse the paying State accordingly.

10. (616.10) Reuse of Employment and Wages. Employment and wages which have been used under this arrangement as the basis of a determination of benefits which established a benefit year shall not thereafter be used by any State as the basis for another monetary determination of benefits.

11. (616.11) Amendment of Arrangement. Periodically the Secretary will review the operation of this arrangement, and will propose such amendments to the arrangement as he believes are necessary or appropriate. Any State unemployment compensation agency or the ICESA may propose amendments to the arrangement. Any proposal will constitute an amendment to the arrangement upon approval by the Secretary in consultation with the State unemployment compensation agencies. Any such amendment will specify when the change shall take effect, and to which claims it will apply.