

NORTH CAROLINA  
DEPARTMENT OF COMMERCE  
**DIVISION OF EMPLOYMENT SECURITY**

**UNEMPLOYMENT INSURANCE**

**CLAIMS MANUAL**

*(This Manual was compiled by the Unemployment Insurance Division of the Employment Security Commission (ESC), but was never adopted as an official ESC manual. In addition, this Manual does not reflect changes since 2004.)*



*Employment Security Commission*

# **Unemployment Insurance Claims Manual**

Prepared By  
Unemployment Insurance Division  
Benefits Department  
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# ***Foreword***

The ***Unemployment Insurance Claims Manual*** provides detailed instructions and procedures for implementing the Employment Security Law of North Carolina (N.C. General Statute Chapter 96) and the Rules and Regulations of the Employment Security Commission. While it is impossible to adequately describe every situation that may be encountered during a given workday, this manual does provide guidance for dealing with the most frequently occurring conditions.

Great care has been taken to insure the accuracy of information contained in this manual and its compliance to the Employment Security Law and Commission Rules and Regulations. **Should any disagreement be found, the Law or the Rules and Regulations take precedence over the information in this manual.**

Changes in the Law, Rules and Regulations and operating procedures are normally conveyed to staff through UI Bulletins. These changes are then incorporated into the ***Unemployment Insurance Claims Manual*** during periodic updates.

**Claims Manual XXI Rev. 08/04**



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## **Chapter 1 Introduction to Claims Taking**

### **1.1 The Concept of Employment Security through Unemployment Insurance**

The problem of involuntary unemployment of workers in an industrial society has long been recognized. The magnitude of the problem during the Great Depression, and the desire to lessen its adverse effects, led to the establishment of a national system of unemployment insurance to pay benefits to eligible persons who are unemployed through no fault of their own.

### **1.2 Legal Basis of Employment Security**

The Social Security Act of 1935 and the Employment Security Law of North Carolina provide the basic framework of the joint federal-state responsibility for administering a program of unemployment insurance in North Carolina. Revenues from a State Unemployment Insurance tax and a Federal Unemployment Insurance tax provide funds to pay benefits to eligible workers and to administer the program. The State tax is based on the employer's past experience under the program. This "experience rating" allow employers who have provided reasonably steady employment to pay less than the basic contribution rate. Employers whose workers experience high unemployment may pay at a rate higher than the basic contribution rate. The Federal tax is a set percentage rate assessed to a minimum wage base which can be raised by Congress. The Federal tax is divided by the Department of Labor into three accounts:

1. 1. The administrative fund
2. 2. The extended benefits fund, and
3. 3. A loan fund for states that have exhausted their own state funds.

**Note:** *Certain nonprofit organizations and governmental entities may elect not to pay unemployment insurance taxes on a quarterly basis. Such employers are known as reimbursable employers. They reimburse the Commission, after the fact, for any unemployment insurance payments made to eligible former employees.*

**No money is withheld from workers' checks to pay for unemployment insurance benefits.**

### **1.3 Types of Unemployment**

For claimant classification purposes, there are two basic types of unemployment -- separated and attached.

#### **A. Separated Unemployment**

Separated unemployment occurs when an individual is out of work for an indefinite period and has no attachment to the payroll or work force of any employing unit. An individual in this category may be totally or part-totally unemployed during a claim

week.

## **B. Attached Unemployment**

Attached unemployment occurs when an individual is either partially or totally unemployed because of lack of work during a *payroll week* as established by his employer, but the individual retains his attachment to the payroll and work force of that employer. After a number of consecutive payroll weeks as prescribed in regulation 10.15 without work and earnings from his employer, an attached claimant is considered to have lost his attached status and is placed in the separated category.

**Note:** Upon written request or e-mail, the local office or Remote Service Center manager may allow an extension if: (1) the employer furnishes a definite return-to-work date; (2) the employer is a non-seasonal employer; and, (3) in the judgment of the manager, the extension is reasonable.

## **1.4 Total, Partial, and Part-Total Unemployment**

The type of unemployment - separated or attached - determines the specific procedures for taking the claim, as well as the eligibility requirements applicable to the claimant. Within these two basic types, a claimant may be *totally*, *partially*, or *part-totally unemployed* as defined below:

### **A. Total Unemployment (Attached or Separated Claimants)**

A week of total unemployment occurs when an individual, irrespective of job attachment, has no earnings or has earnings that do not reduce his weekly benefit amount.

### **B. Partial Unemployment (Attached Claimants)**

A week of partial unemployment occurs when a payroll attached claimant, working all available hours, still works or *is paid* "less than three customary scheduled full-time days", or less than 60% of the customary scheduled full-time hours, *and* their earnings would qualify them for a reduced payment. Interpretation No. 264 is intended to prevent employers from using incentive or production pay when determining the number of hours "effectively" paid during a given week. However, any other wages or pay such as bonus, vacation, or holiday pay, must be applied when determining whether the three days or 60% threshold has been met. For additional information, refer to Interpretation No. 264, Supplement 1, dated June 9, 1987.

### **C. Part-Total Unemployment (Separated Claimants)**

A week of part-total unemployment occurs when a separated claimant reports earnings from casual or part-time work which are sufficient to reduce his weekly benefit amount, but still qualify him for a reduced amount.

## **1.5 Kinds of Unemployment Insurance**

Each state administers its own unemployment insurance program. In addition, there are a number of federal programs designed to assist specific groups of unemployed workers. Details from an individual's work history will help the claims consultant determine the appropriate program. A brief description of each program follows.

### **A. North Carolina's State Unemployment Insurance (UI)**

This is unemployment insurance for workers covered by the provisions of the Employment Security Law of North Carolina. If the unemployed worker's base period employment was with an employer covered by this law, a regular UI claim is taken.

### **B. Interstate Benefit Payment Plan (IB)**

This program provides unemployment insurance for persons who worked in another state during the base period. Since it is likely that unemployment insurance taxes were paid under that state's law, an interstate claim is taken. North Carolina acts as the *agent state*; the other state is the *liable state* which actually pays the benefits. Likewise individuals who have earned wages only in North Carolina and now reside in another state can file a claim with North Carolina as the liable state.

### **C. Combined Wage Claims (CWC)**

This is unemployment insurance for individuals who have worked in more than one state during the past year to eighteen months. Such individuals may elect to file a *combined wage claim* which consolidates earnings from two or more states to pay benefits.

### **D. Unemployment Compensation for Ex-Service Members (UCX)**

This federally financed program provides unemployment insurance benefits to claimants whose recent work experience included *military service*. Military wage credits are assigned to the state where the UCX claimant files a "first" claim. These wage credits may be combined with wage credits from other base period work (such as regular UI) to establish a claim and pay benefits.

### **E. Unemployment Compensation for Federal Employees (UCFE)**

This federally financed program provides unemployment insurance benefits to individuals who worked in *federal civilian service* during the base period. These wage credits may be combined with wage credits from other base period work (such as regular UI) to establish a claim and pay benefits.

### **F. Extended Benefits (EB)**

This program, which automatically goes into effect during periods of high unemployment, provides claimants with an extension of their regular unemployment benefits. The beginning date, duration, and ending date of this program are "triggered" by a specified unemployment rate during a specified period of time.

## **G. Disaster Unemployment Assistance (DUA)**

This program provides temporary unemployment benefits to workers in geographic areas where the federal government has determined that disaster conditions exist and the President has issued a disaster proclamation.

## **H. Trade Readjustment Allowances (TRA)**

This federally financed program provides benefits to certain workers in the United States who are unemployed due to competition with foreign imports.

## **I. Commercial Fishermen**

Under specific provisions of the Employment Security Law, this program provides temporary benefits to workers who are attached to the payroll of a fishing firm and are working less than full-time.

## **J. Longshoremen**

This program provides benefits to a group of workers who are not employed by any one shipping company, but who are assigned work by the unions.

## **1.6 Types of Claims**

Three basic types of claims are used in the unemployment insurance program:

### **A. New Claim**

A new claim is the initial claim filed by an unemployed individual requesting a determination of entitlement to and eligibility for compensation. A new claim generates an appealable monetary determination of eligibility, benefit amount, and duration.

### **B. Continued Claim**

A continued claim is a claimant's certification of eligibility for benefits during a 7-day period (calendar week) of total, partial, or part-total unemployment.

The first eligible continued claim (total or partial) filed in a benefit year is normally a *waiting-period* claim which is non-compensable. The claimant receives waiting-period week credit only if he has met all other monetary and non-monetary eligibility requirements during that week.

### **C. Reopened Claim**

A reopened claim is the first claim filed after the interruption of a prior claim series within the same benefit year. (See Section 3.20, Reopened Claims, in Chapter 3 of this manual for definitions of the types of reopened claims).



### 1.7 Informing Applicants of Right to File a Claim

Some individuals erroneously believe they have filed a claim when they register for work. Each unemployed person who registers for work must be informed of the right to file a claim for unemployment insurance, and asked if he wishes to exercise that right. *In no instance is any individual to be refused the right to file a claim and have his eligibility determined.*

### 1.8 Form NCUI 508, Local Office Initial Claim Appointment Card

In those instances where an individual wishes to file a claim in person and there is a need to schedule the filing, prepare Form NCUI 508, *Initial Claim Appointment Card*, for each person scheduled to return to the local office to file an initial claim for unemployment insurance benefits. Use of this form will reduce the time required to take initial claims since it contains written instructions to the potential claimant about the types of information needed to process a claim request.

### 1.9 Confidentiality of Information Regarding Claims

As a rule, only the claimant, his last employer, or a duly authorized representative of the claimant or employer may obtain information concerning an individual claim or claimant. A request by any such authorized representative must be in writing and a copy must be retained by the employee fulfilling the request. *All employees who deal with requests for information should be familiar with Interpretation No. 254 and Regulation No. 24.*

Exceptions to this rule:

- ⌚ Information may be disclosed to any officer or employee (including law enforcement officers) of any agency of the federal government or of a state or territorial government, lawfully charged with the administration of a federal, state, or territorial law, *but only* for purposes necessary for the proper administration of the law. Normally, requests for and releases of such information should be in writing; however, the RSC or local office manager may *verbally* disclose information if the official requesting the information presents proper identification (e.g., sheriff's badge), and the manager deems the disclosure necessary for the proper administration of the law administered or enforced by the official. The manager authorizing such verbal disclosure must document this action.
- ⌚ Commission employees, served with a subpoena or other compulsory court process calling for disclosure of information, should immediately contact the staff attorney assigned to that administrative region for assistance.

Forward all requests for disclosure of information that are not specifically addressed by Commission policy to the staff attorney in the Legal Department who is assigned to that administrative region.

## **1.10 Providing Assistance to Claimants and Employers**

Staff should provide all possible and reasonable assistance to both claimants and employers, including giving information and explanations.

## **1.11 Communications with the Central Office**

General questions concerning administration, supervision, and procedural interpretation should be directed through regular channels, i.e., local office personnel, Regional Claims Specialists, Regional Manager, etc. However, to expedite the resolution of problems with specific claims, local office staff may use one of the following methods to communicate *directly* with the Benefits Department in the central office.

### **A. Contacts with the Unemployment Insurance Division--Benefits Department**

Depending on the exact nature of the claims problem, office staff should use one of the following methods to communicate directly with the Benefits Department.

#### **1. Telephone**

In those rare occasions where the Regional Claims Specialist is not available to assist, staff should call the central office unit or staff member best suited to provide the needed information.

#### **2. Facsimile Transmissions**

In some instances, facsimile transmission of documents may be used to resolve problems. A facsimile copy of such documents as Form NCUI 500, Form NCUI 500AB, Form NCUI 550, fact finding reports, and DD Form 214/215 may be transmitted to the appropriate central office unit. Always include a cover sheet that contains sufficient information to explain and route the "faxed" documents.

#### **3. E-mail**

Some types of information, such as a change in earnings for intrastate claimants, should be sent by e-mail to the appropriate generic mailbox.

#### **4. Written Correspondence**

When trying to resolve claim problems, use written correspondence as a last resort. Prepare

Form BM 17, *Interoffice Communication*, for those rare occasions when written correspondence becomes necessary. Always include appropriate identifying information such

as the claimant's name, Social Security number, docket number, local office name and

number, etc., in any written communication.

## **1.12 Maintenance of Claims Manuals**

The Unemployment Insurance Director is responsible for the maintenance of the *Claims Manual* and the *Benefit Payment System User Manual* on the Intranet.

### **A. Revisions**

Revisions in the *Claims Manual* and the *Benefit Payment System User Manual* are made as needed. Managers must ensure that appropriate staff members are kept informed of revisions as they are made.

### **B. UI Bulletins**

Unemployment Insurance Bulletins are issued for three reasons: (1) to advise agency employees of procedural interpretations; (2) to describe temporary claim procedures; and, (3) to describe procedures that will be incorporated in the *Claims Manual* or the *Benefit Payment System User Manual* at a later time.

A separate series of UI Bulletin numbers is used for each calendar year. The number of each bulletin is followed by the last two digits of the calendar year, e.g., 1 (04). While bulletins are active, they have the same force and effect as Manual procedures. Although bulletins may remain active indefinitely, they are reviewed periodically to ensure that those containing procedures with permanent application are incorporated into the Manuals and that those with temporary application are cancelled or extended as needed.

## **1.13 Other UI Publications**

Other UI publications, including a current copy of the Employment Security Law, Commission Regulations, Interpretation Manual, and Precedent Manual, are issued at given times and must be retained in each local office and call center. These documents are to be made available to the general public upon request.

## **Chapter 2 Benefit Rights Interview**

### **2.1 Definition of Benefit Rights Interview**

A benefit rights interview is a detailed oral explanation of an unemployment insurance claimant's rights and responsibilities under the provisions of the Employment Security Law of North Carolina. Staff may provide this explanation in person or by videotape or written form.

### **2.2 Purpose of Benefit Rights Information**

Benefit rights information must be given to each individual who files a new claim. This information is designed to acquaint the claimant with the monetary and non-monetary eligibility requirements he must meet in order to establish a valid claim and receive unemployment insurance benefits.

### **2.3 Additional Information to be presented to Claimants**

Ensure that each claimant receives a copy of Form NCUI 504, *Claimant Information and Identification Booklet*, during the initial claims taking process. This booklet reinforces information presented to the claimant. It also contains other important information, including detailed instructions on using the **JOBS Line** voice response system. Information concerning Internet filing should also be provided.

### **2.4 Procedural Guidelines for Providing Benefit Rights Information**

Follow these guidelines when providing benefits rights information.

#### **A. Explain the Purpose of the Benefit Rights Interview**

Courteously explain that the benefit rights process provides important information about an unemployment insurance claimant's benefit rights and responsibilities.

#### **B. Explain the Fraud Provision of the Employment Security Law**

Advise the claimant that willfully withholding information or giving false information could result in the forfeiture of benefits and prosecution under the law. The "Penalties for Fraud" paragraph in the *Claimant Information and Identification Booklet* may be read verbatim to the claimant. If the claimant views a videotaped benefit rights interview, repeat the fraud provision at the beginning of the individual claims taking process.

#### **C. Explain the Privacy Act Statement**

Inform the claimant that his Social Security number is requested under the authority of the Internal Revenue Code of 1954 (26 U.S.C.85, 6011(a), 6050B, and 6109(a). Disclosure of the number is **mandatory**; it must be entered on any claim for unemployment benefits, as well as on wage record reports filed by employers.

#### **D. Question Claimant about Previous Filing**

Ask the claimant if he has previously filed for unemployment benefits in North Carolina or any other state. This information will help determine what type of claim to take.

#### **E. Explain Monetary Eligibility Requirements**

Advise the claimant that in order to establish a monetarily eligible claim, (1) he must have received wages during at least two quarters of the current base period; (2) the sum of those wages must be at least six times the state average weekly insured wage.

Explain the following terms to the claimant.

##### *1. Base Period*

The base period is the first four of the last five completed calendar quarters prior to the effective date of the claim.

##### *Alternate Base Period*

The alternate base period is used only if a claim cannot be established using a regular base period. The alternate base period consists of the four most recently completed quarters.

##### *Extended Base Period for Certain Job Related Injuries*

An individual who lacks sufficient base period wages to establish a claim because of a job related injury for which he received worker's compensation, can file a written petition asking the Commission to extend his base period. *Extended base period* is defined as the four quarters **prior** to the claimant's base period. The Commission may substitute these prior four quarters for the current base period on a quarter-by-quarter basis, as needed, to establish a valid claim. Such substitution may be made regardless of whether the wages were used to establish a prior claim.

**Note:** Any wages earned in the prior four quarters which were used to establish a claim will be excluded if using them would cause the Commission to be out of compliance with applicable federal law.

##### *2. Covered Employment*

Employment covered by the Employment Security Law includes any work for which wages are

paid by:

⌚ an employer who has one or more workers in any twenty weeks during a calendar year, or

whose payroll is \$1,500 or more during a calendar quarter;

⌚ an agricultural employer who has ten or more workers in any twenty weeks during a calendar

year, or who pays \$20,000 or more in wages in any calendar quarter;

⌚ an employer who pays \$1,000 or more for domestic service during any calendar quarter;

⌚ state and local governments; and,

⌚ non-profit elementary and secondary schools.

For additional information, refer to Article 2, Section 96-8 of the *Employment Security Law of North*

*Carolina.*

### 3. *Benefit Year*

A benefit year is a 52 week period beginning with the effective date of a valid claim. There are two exceptions to the 52-week benefit year: (1) when the benefit year begins the first day of a calendar quarter, and (2) when the benefit year begins the second day of a calendar quarter followed by a February 29 within that benefit year. In these instances, the benefit year will not end on a Saturday 52 weeks later, but must extend for 365 days or 366 days. Therefore, these exceptional benefit years will end on a Sunday or Monday of the 53rd week. Since the next succeeding benefit year must begin on a Sunday, the net effect of these exceptions is a 53 week benefit year. This extension of the benefit year prevents the erroneous use of the same quarter of wages in two different benefit years.

### 4. *Weekly Benefit Amount*

The weekly benefit amount is the amount of money a claimant can receive each week. It is calculated by dividing the sum of the wages earned during the highest quarter of the base period by 26. This result, which cannot exceed the maximum weekly benefit amount allowed by law, is rounded down to the next lower whole dollar if it is not a whole

dollar. If this amount is less than fifteen dollars (\$15.00), the individual is not eligible for benefits.

#### *5. Duration*

Duration is the number of weeks a claimant can receive his full weekly benefit amount. Minimum duration is 13 weeks; maximum duration is 26 weeks. Duration is computed by dividing the total base period wages by the high quarter wages and then multiplying the result by eight and two-thirds. A result which is not a whole number is rounded to the nearest whole number; a result that is less than 13 or more than 26 is raised or lowered to the minimum or maximum duration.

#### *6. Lag Wages*

Lag wages are wages earned between the end of the base period and the effective date of a new claim.

#### *7. Seasonal Wages*

Seasonal wages are wages earned by a worker during a recurring period in which an employer, designated as seasonal by the Employment Security Commission, is actively operating. (Refer to Chapter 3 of this manual for additional information).

#### *8. Wage Transcript and Monetary Determination*

A Wage Transcript and Monetary Determination is a written determination which itemizes wages and employers in the base period, the weekly benefit amount, duration, and effective date of the claim, etc. Refer to Chapter 3 of this manual for additional information.

### **F. Explain Non-monetary Eligibility Requirements**

Discuss the following non-monetary eligibility requirements with the claimant.

#### *1. Registration for Work*

Advise the individual that all claimants, except those still attached to an employer's payroll, must register for work.

#### *2. Filing for Benefits*

Explain to the claimant that he must file a claim for each calendar week of unemployment that he wishes to receive benefits.

#### *3. Ability to Work/Availability for Work*

Explain that a claimant must be able to accept *any* suitable work (part-time or full-time) and must be available to accept work immediately. The availability provisions do not apply to claimants enrolled in Commission Approved or WIA training. *No claimant will be*

*considered able to work during any week for which he has applied for or is receiving benefits under any other state or federal law based on temporary or permanent total disability.*

#### 4. Seeking Work

Advise the individual that a separated claimant must actively seek work during any week for which unemployment benefits are claimed. Actively seeking work is defined as doing those things that an unemployed person who wants to work would normally do. Obviously, factors such as the claimant's occupational classifications and skill levels, the hiring practices and customs pertinent to these occupational classifications, the job potential in the geographical area, and the current labor market conditions, all play a role in determining those activities that constitute an active work search by a particular claimant. Consultants are responsible for recognizing and evaluating these factors when setting work search requirements that have been designed and tailored for each individual claimant. In the absence of more specific work search requirements, a claimant who has sought work in person on two different days with at least two different employers need not be questioned further with respect to work search. Any deviation from the requirement of "two different contacts on two different days" must be documented in writing.

**Note:** *Unless otherwise shown to be the primary method of obtaining employment in a claimant's particular area of skills, telephone contacts and/or the submission of résumés are not sufficient to meet the work search requirements. In person contact with the union agent or union hiring halls during the week for which a claim for benefits has been filed shall be equivalent to only one of the job contacts required. Repeated contacts with the same employer each week are not acceptable.*

Enter the claimant's work search requirements on a copy of Form NCUI 506E, *Work Search Record*; date and initial this block. Explain the work search requirements to the claimant. Advise the claimant to sign and date the work search requirements block to indicate that the requirements were explained and that they were understood. Give or mail the form to the claimant; instruct him to record all work search contacts on the form, and to present it when requested. The claimant must sign and date the certification on the back of the completed form before it is presented for examination during an eligibility review.

**Note:** *These work search provisions do not apply to claimants enrolled in Commission Approved Training or WIA sponsored training.*

#### 5. Reporting Earnings

Advise the claimant that he must report all gross earnings (even though not yet received) made during each week that benefits are claimed. Explain that any other income received, such as severance pay or bonuses must be reported.

#### 6. Job Offers

Explain to the claimant that he must report all job offers received during each week of unemployment for which benefits are claimed.





### *7. In Person Reporting*

Advise the claimant that he must report in person to the local office when requested and that failure to report when so directed may result in the delay or denial of benefits.

### *8. Change of Address*

Explain to the claimant that he must notify the Commission of any change of address. Failure to do so could result in delayed correspondence, payment, or a lost or stolen check.

### *9. Return to Work*

Inform the claimant that he is requested to notify the commission if he returns to full-time work. Advise him that a claimant who works full-time and continues to file for benefits will be overpaid and may be prosecuted.

### *10. Receipt of Checks*

Explain to the claimant that it is his responsibility to keep a record of all benefits received, by week-ending date. This information may be very helpful in trying to locate any delayed or missing checks. The claimant may also find it helpful when filing income tax returns.

**Note:** Internal Revenue Service Publication 905, "Unemployment Compensation: It's Taxable",

are available to taxpayers. The Claimant can call the Internal Revenue Service at 1-800-829-

3676 to request copies of this publication.

## **G. Explain Non-monetary Disqualifications**

Advise the claimant that a person, who quits a job, gets discharged, refuses a referral to a job, refuses a job, refuses to enter Commission approved training, or fails to complete Commission approved training may be disqualified indefinitely. Claimants discharged for cause which is not considered misconduct (substantial fault) may be disqualified from four to thirteen weeks (nine weeks is the presumptive period prescribed by law). Section 3.27 of Chapter 3 describes procedures for removing an indefinite disqualification.

## **H. Explain Claimant's Appeal Rights**

Explain to the claimant that both monetary and non-monetary determinations may be appealed. A monetary determination may be printed in the local office. If the claim is filed through the RSC or via the internet the WT & MD will be mailed to the claimant from the central office. Advise the claimant that he may protest an incorrect or incomplete monetary determination. Inform the claimant that he and/or his former employer may appeal a non-monetary determination within the time period shown on

the determination if either party contends the ruling is not in accordance with the law.

## **I. Explain Voter Registration Services**

Explain to the claimant that voter registration services are offered in each Job Service office that accepts claims for unemployment insurance benefits. Advise the claimant that he may, if he wishes, complete a voter registration application at the time he files a new or reopened claim or when he changes his address while filing for unemployment benefits.

## **2.5 Variations in the Benefit Rights Interview**

Depending on the kind of claim being filed, the interviewer may need to provide additional information to the claimant during the benefit rights interview.

### **A. Unemployment Compensation for Ex-Service Members (UCX) New Claim**

Explain the following special provisions to persons filing for UCX benefits.

- ☐ 1. To qualify for UCX benefits, an individual:
  - ☐ a. must have active service (not including active duty in reserve status *unless* it is for a continuous period of 90 or more days) in the armed forces, *and*;
  - ☐ b. must have been discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service) *and*;
  - ☐ c. was discharged or released after completing his initial "contractual obligation" which varies from two to six years; *or*,
  - ☐ d. was discharged before completing his initial "contractual obligation":
    - ☐ (1) for the convenience of the government to meet budget constraints
    - ☐ (2) because of medical disqualifications, pregnancy, parenthood, or any service incurred injury, or disability; *or*,
    - ☐ (3) because of hardship; *or*,
    - ☐ (4) because of personality disorders or inaptitude, but only if service was continuous for 365 days or more.
- 2. 2. Base period wages are determined by a pay scale called the Schedule of Remuneration (UCX). This schedule which is based on the claimant's rank at the time of separation can be viewed by accessing the UCX Table Inquiry Selection in the Benefit Payment System. See Chapter 15 of this manual.
- 3. 3. Base period wages are assigned to North Carolina if the new initial claim is filed in this state and a benefit year is established. Claims filed by remote means are considered filed in-state if the claimant's mailing address is an in-state address.
- 4. 4. Accrued leave and vocational training subsistence allowances have the following effect:

- ⌚ Accrued leave is treated the same as separation pay for UI claimants.
- ⌚ Benefits and incentives offered under the *Voluntary Separation Incentive (VSI)* or *Special Separation Benefit (SSB)* programs are to be treated as separation payments. Payments under these voluntary separation programs may be either lump-sum (SSB) or periodic (VSI).

- ⌚ Ex-service members, enrolled in vocational rehabilitation training, who receive subsistence allowances from the Veterans Administration (VA) under the provisions of Chapter 31 of Title 38, U.S. Code are not eligible for UCX benefits or for the UCX portion of a joint claim for any week for which the VA allowance is received.

## **B. Unemployment Compensation for Federal Employees (UCFE) New Claim**

A claimant filing a new initial claim against wages received from the Federal Government during North Carolina's base period must meet the same eligibility requirements as other unemployment insurance claimants. The following additional information must be presented to UCFE claimants during the benefit rights interview.

1. Explain the effect of terminal leave and severance payments on benefits.  
Inform the claimant that individuals who receive terminal leave or severance pay are not considered unemployed until the time period covered by such payments has ended. If severance pay was received, examine Form SF-50, Notification of Personnel Action, to identify the period covered. If the severance pay is currently in effect, proceed in the same manner as for a regular UI claim.
2. 2. Explain the assignment of federal wages

Advise the claimant that federal wages are normally assigned to the state where the claimant had his last official station in federal employment. Further advise the claimant of these exceptions to the rule:

- ⌚ If, after leaving federal employment, the claimant has worked in covered employment in the state in which he lives at the time he files his new UCFE claim, then federal wages are assigned to that state. This applies regardless of the duration of the employment covered by the state law, and whether or not the employment was in the current base period.
  - ⌚ If the claimant's last official station was outside the United States, then federal wages are assigned to the state in which he now resides. "Official station" means the state, or country, if outside the U.S., designated on the individual's notification of personnel action terminating his federal civilian service (Standard Form 50 or its equivalent) as his "duty station".
3. Advise the claimant of his potential re-employment rights with his former employing agency  
or other federal agencies:
    - ⌚ A permanent employee, laid off because of reduction in force, is put on a "displaced employees list". Individuals on this list receive priority consideration for available job openings for which they qualify.
    - ⌚ A permanent employee, who leaves the job after working less than three years, can be reinstated for up to three years without having to enter the competitive examination system again.
    - ⌚ A permanent employee who leaves the job after three or more years of continuous service, has life-time reinstatement rights without having to reenter

the competitive examination system.

### **C. Interstate New Claim**

Ensure that the benefit rights interview for an interstate claimant contains an explanation of the monetary and non-monetary requirements of the state(s) against which the claim is being filed. This information is available in the *Interstate Handbook*.

### **D. Attached New Claim**

Advise attached claimants that they must meet the basic eligibility requirements with the following exceptions:

- ⌚ Attached claimants are not required to register for work or make an active search for work since they are still employed.
- ⌚ Attached claimants are not eligible to receive benefits for any two weeks in a calendar year which an employer declares unpaid vacation weeks. (Refer to Section 3.23 of Chapter 3 for additional information).

## **Chapter 3 Initial Claims**

### **3.1 Introduction**

There are two types of initial claims: *new and reopened*. A new initial claim (NIC) is defined as the first claim filed by an individual requesting a determination of his entitlement to and eligibility for unemployment compensation. As a result of this request, the agency provides an appealable wage transcript and monetary determination to the potential claimant.

A *reopened* initial claim is one of three types: (1) an *additional initial claim* (AIC), (2) an *additional initial claim – intervening employment without a break in the claim series* (AIE), or (3) a *no intervening employment* (NIE) initial claim. In all three types, the claimant has a valid benefit year in progress. In two types, AIC and NIE, the claimant has had a break of one or more weeks in the claims series and wishes to resume filing for benefits. If the break in the claim series was caused by employment, then the reopened claim is an AIC. If the break in the claim was caused by any reason other than employment (illness, vacation, etc.), then the reopened claim is an NIE. In those instances where the claimant had employment that was less than full time, or was of such a short duration that no break on the claim series occurred, the claim is an AIE.

### **3.2 Benefit Rights Interview**

Each person who files a *new* claim for unemployment benefits, regardless of type of unemployment or kind of unemployment insurance program, must receive a benefit rights interview. During this interview, information about his benefit rights and responsibilities, as well as, information about the monetary and non-monetary eligibility requirements he must meet to establish a valid claim and be paid benefits, is presented to the claimant. The Claims taker should review this information with individuals who are reopening claims. Refer to Chapter 2 of this manual for a detailed explanation of the benefit rights interview process.

### **3.3 Form NCUI 504, Claimant Information and Identification Booklet**

Provide each claimant a copy of Form NCUI 504, *Claimant Information and Identification Booklet*. This booklet, which reinforces information presented to the claimant during the benefit rights review, contains basic information about the unemployment insurance program, describes the eligibility requirements and disqualification provisions of the Employment Security Law.

### **3.4 The New Claim Interview**

Before taking a new initial claim, ensure that the claimant understood the information presented during the benefit rights interview. Remind the claimant of the penalties for making fraudulent statements before asking him any questions regarding his claim. Explain to the claimant that the legal basis for requiring him to disclose his Social

Security Number for claim filing purposes may be found in the Privacy Act Section of the *Claimant Information and Identification Booklet*.

The claims taker must obtain sufficient information to identify the type of claim and the kind of unemployment insurance program appropriate for each individual. Question the potential claimant carefully about the following topics.

### **A. Previous Filing**

Determine if the claimant has previously filed for unemployment benefits, and if so, when and where. If the claimant has a benefit year in progress, take a reopened claim; if not, take a new initial claim. If the claimant has an indefinite disqualification on a prior claim, determine if he has met the requirements to remove the disqualification. If so, remove the disqualification as described in section 3.27 of this chapter.

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### **BPS Inquiry Screen References**

01 – Claimant Profile Data 07 – Benefit Payment History 02R  
– Non-monetary Determinations W6 – Wage History File

### **B. Claimant's Work History**

Explore the claimant's work history during the past two years to determine what kind of unemployment insurance program claim to take. If the claimant worked for a covered North Carolina employer(s) during the base period, take a regular North Carolina unemployment insurance (UI) claim. If the claimant worked for the federal government, take an unemployment compensation for federal employees (UCFE) claim. If the claimant was in military service during the base period, take an unemployment compensation for ex-service members (UCX) claim. If the claimant worked in another state during that state's base period, take an interstate (IB) claim. If the claimant has covered employment and wages in more than one state, take a combined wage (CWC) claim against North Carolina or a straight IB claim against the state where he can qualify using only that state's wages. The claimant can choose between the IB or CWC claim.

Remember that different unemployment insurance programs may be combined in various ways (UI-UCFE, UI-UCFE-UCX, etc.).

### **BPS Inquiry Screen References**

01 – Claimant Profile Data W6 – Wage History File 02R – Non-monetary Determinations SEM – Seasonal Employer Inquiry 07 – Benefit Payment History

### **C. Last Employer (Bona Fide Permanent Employment)**

When a claimant files a new initial claim for unemployment insurance benefits, the consultant must determine the claimant's last bona fide permanent employment. If the claimant's last employment was not greater than thirty (30) consecutive calendar days, the consultant must determine if this was the claimant's last bona fide permanent employment by seeking answers to the following questions:

1. 1. Whether the employment was offered by the employer and accepted by the claimant as employment that would be greater than thirty (30) consecutive calendar days.
2. 2. Whether the claimant has a recent history of accepting employment of thirty (30) or less consecutive days; and
3. 3. What were the reasons for the ending of the employment of thirty (30) or less consecutive calendar days?

If a separation issues exists on the employment that is to be bona fide, the fact-finding form will be noted in the comments section with the following:

1. 1. The name and address of the employer that was not used as bona fide employment.
2. 2. A statement that the claimant's right to appeal the decision of the last bona fide employment has been explained to the claimant and the date.

For *additional initial claim (AIC)* purposes, the *last employer is the employer for whom the claimant most recently worked prior to reopening the claim, regardless of the duration of the employment.* Take the claim in the usual manner. Request separation information from a 30 day or less employer; refer any separation issue related to this employment for adjudication.

**Note:** *This definition of last employer does not apply to claimants filing attached claims or to claimant whose last employment was military service.*

#### **D. Total Disability Benefits**

Determine whether the claimant *has applied for or is receiving benefits* under any other state or federal law based on temporary total or permanent total disability. All Social Security disability benefits are based on total disability.

A claimant is not considered able to work during any week for which he has applied for or is receiving benefits under any state or federal law, if those benefits are based on temporary or permanent total disability. If such a claimant insists on filing for benefits, refer the claim to an adjudicator for a determination of the individual's ability to work when the first week of benefits is claimed. Access Screen C3 and set an Issue Code 17, receiving or applying for benefits under any state or federal law based on temporary total or permanent total disability, on the claimant's record.

#### **BPS Data Entry Screen References**

C3 – Establish Issue or Pension Amounts

### **3.5 Taking A New Intrastate Claim**



In some instances, an individual who wishes to file a new claim will already have been interviewed and registered for work by Employment Services staff. Access Screen B1, enter the individual's Social Security number and press ENTER. The screen will refresh and display basic claimant information (name, address, etc.) currently in the system. Changes in this basic data can only be made on the CD Screen. If changes are needed, exit Screen B1. Access Screen CD and make the changes. Then re-access Screen B1 and complete the required entries.

If the claim is taken in person (whether in a local office or at a remote location) Form NCUI 500, *Initial Intrastate Claim for Benefits*, should be completed. All information needed to complete the form is supplied by the system from information entered on Screens CD, OI, B1 and B2. Both the claimant and the claims taker must review and sign the completed form. Use the following guidelines to complete Screens CD, B1 and B2 or Form NCUI 500.

If the claim is filed via the internet the accessing of the application by claimant using his PIN (whether the PIN is created with the filing or has previously been established) is considered to be his 'electronic signature' and thus Form NCUI 500 is not created nor is a signature required.

When the new initial claim is taken by telephone Form NCUI 500 is not created and a signature is not obtained. It is necessary that the caller be questioned carefully to prevent identity theft and thus insure that the caller is indeed the same as the person who earned the wages used as the basis for the claim being filed.

#### **A. Claimant's Social Security Account Number**

Verify the claimant's Social Security number before entering it on Screen CD or Form NCUI 500; examine the claimant's Social Security card, if possible. If the claim is filed in person and the claimant does not have a card, examine any other document(s) the claimant has that shows his Social Security number. If the claim is filed by telephone then use electronic information (i.e. match last name with that found on the wage file) to ensure a correct social security number is being used.

If the claimant has more than one Social Security number, information contained on one of the Benefit Payment System inquiry screens may help the claims taker determine which number to use on Form NCUI 500.

**Note:** *If the claimant has more than one Social Security number, and another individual has or has had a claim under one of those numbers, send Form NCUI 500 along with a covering memorandum to the Assistant UI Director for Benefits Administration. List all the Social Security numbers and an explanation of the situation. Do not key the claim. The Monetary Revision Unit in the central office will determine the correct Social Security number by contacting the Social Security Administration. When the correct number is obtained, Monetary Revision Unit staff will enter claim data into the system.*

#### BPS Inquiry Screen References

01 – Claimant Profile Data    W6 – Wage History File

#### BPS Data Entry Screen References

## **B. Claimant's Name, Address and Signature**

- *Name and Signature*

To facilitate delivery of checks by the postal authorities, the claimant's first name, middle initial and last name should be entered on Screen CD. If the claim was filed in the local office and the claimant cannot write, have him make his mark on Form NCUI 500; write the claimant's name beside the mark and write "Witness - (Interviewer's full signature)". The witness name should be legibly printed above the signature.

- *Address*

The claimant's address on Screen CD should include street name and number or P.O. Box, city state, and zip code. When the street, city and state are correctly entered the system will provide the correct 9 digit zip code when the 'enter' key is depressed.

## **C. Effective Date of Claim**

Commission Regulation 10.10 states in part that "the effective date of registration and the initial claim for benefits shall be:

- ☐ (A) the        Sunday of the Calendar week during which the claimant reports to a local Employment Security Office following his last day of work; or,
- ☐ (B) the Sunday of the calendar week during which the claimant would have reported if:

1.        1.        the claimant reports at the first opportunity afforded him by the Commission and;
2.        2.        the claimant would have reported during a prior calendar week during an ordinary business day following his last day of work had the Commission been able to serve him then".

**Note:** *An initial claim may be filed on the last day an individual worked provided he did not receive any separation pay. An exception to this rule is found in GS 96-8 (10)c which states that the claimant shall be considered unemployed as to receipt of severance pay for any week the individual is registered at or attending an accredited institution of higher learning, secondary school or is in CAT or approved vocational training. Any time that this exception is applied to a claim a comment shall be entered using screen Y1 noting the date of registration/enrollment, the name of the school involved and the form of documentation supplied by claimant to show that registration/enrollment. Note that this exception only applies to weeks the claimant is actually registered at or enrolled in school or training.*

Once the social security number, intervening employment indicator and claim type are entered on Screen B1 and the 'enter' key is depressed, the Benefit Payment System

uses the information to determine the effective date of the claim. The effective date is displayed in the NEW, ADDL, REOPEN, or TRANSITIONAL claim field as appropriate. At the same time, the system will display any basic claimant information found on a prior claim record. The claims taker must review all returned data, including the effective date and type of claim, and make any necessary changes before proceeding further. Changes can be made by simply overtyping the existing data with new data.

#### **D. Antedating New and Additional Claims**

Commission Regulation 10.19 states that "The effective date of initial registration or initial claim for a claimant who, for reason's found by the Commission to constitute good cause, is late in reporting to a local Employment Security Office shall be the Sunday of the Calendar week during which the Claimant would have reported; provided the claimant reports at his first opportunity and no later than twenty-eight (28) days following his last day of work." It should be noted that this section gives the claims taker the authority to backdate the initial claim without raising an issue if it is determined that claimant has reported at his first opportunity and it has not been more than 28 days since his last day of work.

If the initial filing is done more than 28 days after the last work day and/or claimant had ample opportunity to file the claim within those 28 days and did not for some reason then Commission Regulation 10.22 states that "Good cause is deemed to exist for late reporting without time restriction whenever an individual's delayed reporting is due to any of the following:

- ☐.(1)A notice of the time and place for filing his claim for benefits was not posted in the employer's establishment when it should have been posted;
- ☐.(2)His Employer warned, instructed, or coerced him not to file for benefits;
- ☐.(3)A representative of the Commission made inadequate or misleading statements to him;
- ☐.(4)Due to circumstances beyond his control, it was impossible for him to report."

Accordingly, antedating a new or reopened claim is allowable **only** when the claimant's failure to report at the first opportunity afforded him by the Commission was caused by one of the factors described in the cited Regulation. Establishing monetary eligibility or increasing the weekly benefit amount or duration of a claim do not, in and of themselves, constitute "good cause" for late reporting, nor for allowing antedating. Follow the instructions below to process a request that requires a determination to antedate a new or reopened claim and any related continued weeks.

##### **1. Effective Date**

The effective date of a new or reopened claim requiring adjudication for which antedating is requested will always be the Sunday of the calendar week in which the claim is filed. *Do not take any weeks associated with the antedating request at this time.*

##### **2. Adjudication Activities**

###### **a. Antedating is Only Issue**

If the claim is filed in person, set the antedating issue and ask the claimant to complete the antedating section of Form NCUI 500F, Miscellaneous Issues Fact Finding Report, before leaving the office. If the initial claim is filed by telephone or internet and the claimant makes a request to antedate, a fact finding interview must be scheduled to be held in person or by telephone. If a week has not yet been paid an issue code 06 should be set using Screen C3. If the request to antedate involves making the claim effective in a prior quarter an issue code 99 should also be set using Screen C3.

If the claimant avails himself as scheduled and has not yet filed the waiting week or first compensable week, instruct the claimant to use the VRU or the internet to file a weekly certification for the waiting period week. **Insure that an issue code 06 and if necessary code 99 is set prior to claimant's filing.** Conduct the fact finding interview and route it to an adjudicator in order to have a determination on the antedating request (code 06) prepared.

If antedating is allowed and the new effective date of the claim is within the *same* quarter, access screen A1 and enter the new effective date. Take any eligible continued weeks on desk claims and process them for payment. It may be necessary to mail the claim forms to the claimant and have them returned to the office or call center for processing.

If antedating is allowed and the new effective date of the claim falls within a *prior* quarter, the current claim must be withdrawn before the antedated claim can be set up. Prepare Form UIC 72 and forward it to the Monetary Revision Unit in the Benefits Department and request that the current claim be withdrawn and re-established in a prior quarter. Take any eligible antedated weeks on desk claims and attach them to the Form UIC 72. **It will be necessary for the claimant to discontinue filing weekly certifications until this process is complete.**

If the antedating is denied, when posting to the Benefit Payment System the adjudicator should enter the effective date requested by the claimant as the starting date of ineligibility. Enter the date that is one day prior to the effective date of the current claim as the ending date of the ineligible period.

**b. Antedating Issue and a Separation Issue**

If both a separation and antedating issue exists, set both issues and ask the claimant to complete the appropriate sections of Form NCUI 500B or Form NCUI 500C and the antedating section of Form NCUI 500F, Miscellaneous Issues Fact Finding Report, before leaving the office if the claim is filed in person. If the initial claim is filed by telephone or internet and the claimant makes a request to antedate, a fact finding interview must be scheduled to be held in person or by telephone. If a week has not yet been paid an issue code 06 should be set using Screen C3. If the request to antedate involves making the claim effective in a prior quarter an issue code 99 should also be set using Screen C3.

If the claimant avails himself as scheduled and has not yet filed the waiting period or first compensable week, instruct the claimant to use the VRU or internet to file a weekly certification. Conduct the fact finding interview; complete all fact finding reports and forward required documents to the Adjudication Unit. An adjudicator will render a

determination on both the antedating request and the separation issue. If antedating is allowed, the determination will instruct the claimant to contact the agency to arrange a time to file the antedated weeks. When the claimant makes contact take all eligible weeks on desk claims and forward them to the Benefits Department in the central office for payment. Note that the paper certifications may need to be mailed to the claimant and once completed returned to the local office/remote services center for processing. The adjudicator will also notify the Monetary Revision Unit to take necessary action to modify the claim effective date.

If the claimant fails to complete the fact finding process and the waiting period or first compensable week has been filed, forward the fact finding reports and other required documents to the Adjudication Unit in the Benefits Department for processing.

#### c. Antedating Issue and an Able/Available Issue

If the claimant indicates there is another able and/or available issue besides antedating, ask the claimant to complete the appropriate sections of Form NCUI 500E, *Able and Available Fact Finding Report*, and the antedating section of Form NCUI 500F, *Miscellaneous Issues Fact Finding Report*, before leaving the office if the claim was filed in person. If the initial claim is filed by telephone or internet and the claimant makes a request to antedate, a fact finding interview must be scheduled to be held in person or by telephone. If a week has not yet been paid an issue code 06 should be set using Screen C3. If the request to antedate involves making the claim effective in a prior quarter an issue code 99 should also be set using Screen C3.

If the claimant avails himself for the fact finding process and has not yet filed the waiting period or first compensable week, instruct the claimant to use the VRU or internet to file a weekly certification. Conduct the fact finding interview; prepare a determination that covers both the antedating issue and the able/available issues.

If antedating is allowed and the new effective date of the claim falls within the *same* quarter, access Screen A1 and enter the new effective date. Take any eligible antedated weeks and input them into the Benefit Payment System using screen Z9.

If antedating is allowed and the new effective date of the claim falls in a prior quarter, the determination will instruct the claimant to contact the agency to arrange a time to file the antedated weeks. The adjudicator must also notify the Monetary Revision Unit to take necessary action to modify the claim effective date. When the claimant makes contact take all eligible weeks on desk claims and forward them to the Benefits Department in the central office for payment. Note that the paper certifications may need to be mailed to the claimant and once completed returned to the local office/remote services center for routing. **It will be necessary for the claimant to discontinue filing weekly certifications until this process is complete.**

Whenever a claimant desires to appeal a denied antedating request, follow the procedures described in Chapter 6 of this manual for taking and processing an appeal to an adjudicator's

determination.

#### BPS Inquiry Screen References

01 – Claimant Profile Data

07 – Benefit Payment History

02R – Non-monetary Determinations

### **BPS Data Entry Screen References**

A1 – Change Effective Date

C1 – Non-monetary Determinations

B1 – Initial Claim Information

C3 – Establish Issue or Pension Amounts

B2 – Initial Claim Employer Information

Z9 – Pay Order Certification

### **E. Claimant's Separation Information**

The reason for an individual's separation from employment must always be explored. A separation issue exists whenever an individual is unemployed for any reason other than lack of work or inability to perform the work. The following paragraphs contain instructions for processing separation information received from the claimant.

**NOTE:** When the last employer is a temporary agency, care must be taken to ensure that the cause of separation is the reason claimant was separated from the temporary agency and not from the last assignment the claimant worked on with said agency. Many temporary agencies require employees to sign an agreement that they will stay in contact with the agency at regular intervals once an assignment is completed or they are considered to have quit work with the temporary agency.

#### **1. Separation Information Provided by Claimant Indicates No Issue**

If the separation information provided by the claimant indicates no issue, take and process the claim using separation code 38, 40 or 42 as appropriate when completing the B2 transaction.

#### **2. Separation Information Provided by Claimant Indicates an Issue**

If the claim is filed in person and separation information provided by the claimant raises an issue, give the claimant Form NCUI 500B or 500C, as appropriate, to complete and return before leaving the office. Provide the claimant a copy of the instructions for completing the form and clearly mark all sections of the form to be completed. The staff member who receives the completed fact finding report should briefly review it to ensure that the claimant answered all appropriate questions and provided more extensive information than was provided on the initial claim. If the initial claim is filed by telephone or internet and the claimant has indicated a separation issue exists, a fact finding interview must be scheduled to be held in person or by telephone.

If the claim is filed in person enter the appropriate issue code on Screen B2. When filed by telephone or internet the processing of the claim will cause an appropriate issue code to be set. When the claim is filed by telephone or internet it is necessary to schedule the claimant for a fact finding interview. To allow the employer adequate time to return Form NCUI 500AB, do not schedule the fact finding interview sooner than eleven (11) *working days* after an initial claim is filed.

The staff member who conducts the scheduled fact finding interview is responsible for

an in-depth examination of the claimant's responses to the questions on the fact finding report and completion of Form NCUI 500S, *Fact Finding Supplement* (claimant's rebuttal to timely employer separation information, any additional information, interviewer's comments, etc.).

**Note:** The time frame for conducting fact finding and receiving Form NCUI 500AB may create first payment and adjudication time lapse problems. It is the claimant's responsibility to file weekly certifications. In those rare cases where the claimant does not have the ability to file weekly certifications, staff may use Screen Z9 to enter the waiting period week into the system at the same time the fact finding interview is conducted.

Staff may also use Screen Z9 to process a contested week on an able and available issue at the same time the fact finding interview is conducted.

Data entry of weeks is restricted to those weeks that must be processed in order to render non-monetary determinations. The weekly certification forms for those weeks must be maintained in the local files for audit purposes, if they are entered there.

If the claimant reports for fact finding as scheduled, take one of the following actions.

- If the claimant is monetarily eligible, send the fact finding report, Form NCUI 500AB, and a copy of Form NCUI 500 to the Adjudication Unit.
- If the claimant is monetarily ineligible and protests his monetary determination, hold the fact finding report and Form NCUI 500AB in the claim record file until the claimant is determined to be monetarily eligible. Then send the fact finding report, Form NCUI 500AB, and other pertinent documents to the Adjudication Unit in the Benefits Department of the Central Office.

Any weekly certifications (Forms NCUI 506D) sent to the central office or weeks filed by telephone or online while a separation issue is pending adjudication, or before a wage protest investigation is completed, will be displayed on Screen 07. Payment, however, will not be made until the issue is adjudicated or the wage investigation is completed. If the claimant is subsequently determined to be eligible for benefits, the weeks will be paid.

If a monetarily eligible claimant fails to report for his scheduled fact finding interview and a weekly certification has been filed, send the claimant's completed fact finding report, Form NCUI 500AB (and its envelope, if there is one) and other pertinent documents to the Adjudication Unit. A Central Office adjudicator will render a determination on the issue.

**Note:** To eliminate "open" issues, a system resolution will be posted when no weekly certification has been filed. If a week of benefits has been claimed, the determination is countable for workload purposes. If no week has been claimed, then the resolution cannot be counted.

#### BPS Data Entry Screen References

B1 – Initial Claim Information	C3 – Establish Issue or Pension Amounts
B2 – Initial Claim Employer Information	Z9 – Pay Order Certification
C1	– Non-monetary Determination

## F. Separation Payments

Section 96-8 (10) c of the Employment Security Law states that an individual who is receiving, has received, or will receive, as a result of separation from his last employment, payment in the form of wages in lieu of notice, accrued vacation pay, terminal leave pay, severance pay, accumulated sick leave payment or *any other type of dismissal payment or wages by whatever name, is not considered unemployed during the period covered by the payment.*

Incentive payments to retire fall into this category.

If the employer does not specify a period of time covered by the separation payment, compute the time period by dividing the total payment by the individual's daily pay rate. Add the resulting number to the last day actually worked to determine the date the individual is no longer in pay status. Do not include week-ends in computing time covered by separation payments for individuals who worked a five day week. The effective date of the new claim will be the Sunday of the calendar week in which the days covered by the separation payment is less than five (5).

Occasionally, an individual who receives separation pay that lasts for an extended period will go to work elsewhere and become separated from that new employment before the separation pay period from his previous job ends. For new claim purposes, this individual must be considered employed until the period covered by separation pay from the previous employment has ended. In such situations, the individual's last employer for new claim purposes is the one for whom he *actually performed work for more than thirty (30) days.*

NCGS 96-8 (10) c states that the claimant shall be considered unemployed as to receipt of severance pay for any week the individual is registered at or attending an accredited institution of higher learning, accredited secondary school or is in CAT or approved vocational training. Any time that this exception is applied to a claim a comment shall be entered using screen Y1 noting the date of registration/enrollment, the name of the school involved and the form of documentation supplied by claimant to show that registration/enrollment. Note that this exception only applies to weeks the claimant is actually registered at or enrolled in school or training.

**Note:** Occasionally, an employer announces a layoff that will occur at a specified future date. In an attempt to keep a viable workforce and ensure an orderly shutdown, the employer may offer workers a retention (stay-on) bonus. Typically, under such an offer, employees are promised a bonus if they will continue working until the specified layoff date. To qualify for the retention bonus, workers must forego permanent employment opportunities elsewhere. Employees who leave work for any reason prior to the layoff date are not eligible for retention bonus. A retention bonus is paid to an employee because the employee agreed to continue working until a specific date; it is not paid due to separation from employment. Therefore, a retention bonus does not constitute a severance or separation payment. It is therefore considered a bonus and is reportable only during the week it was actually received.

## G. Self Employment



If the claim is filed in person and the claimant's last employer was self-employment, enter a non-separation issue code 80 when doing the B1 and enter the claimant's last regular employer prior to his self employment on Screen B2. Ask the claimant to complete the appropriate fact finding report(s) before leaving the office. If the claim is filed by telephone or internet it will be necessary to schedule the claimant for a fact finding interview (by telephone or in person) no sooner than eleven (11) working days after the filing date of the initial claim. The consultant will conduct the fact finding interview, complete the appropriate sections of Form NCUI 500F, *Miscellaneous Issues Fact Finding Report*, and send it to the Adjudication Unit. An adjudicator will issue a determination ruling on (1) whether the claimant could reasonably be expected to return to self-employment and (2) the reason for separation from the last employment before self-employment began.

### BPS Data Entry Screen References

C3                      –                      Establish                      Issue                      or                      Pension                      Amounts

## **H. Students**

A student's eligibility for unemployment insurance depends upon his availability for work. Treat school attendance just like any other condition which might affect a claimant's availability for work.

Section 96-13 of the Employment Security Law provides the legal basis for the Agency to pay unemployment insurance benefits to claimants enrolled in either Commission Approved Training (CAT) or Workforce Incentive Act (WIA) training. Under CAT, office staff are responsible for approving the training and for selecting and enrolling claimants. Under WIA sponsored training, office staff may or *may not* have these responsibilities.

A claimant who is attending WIA sponsored training *cannot* be denied unemployment benefits because of unavailability for work, lack of an active search for work, or refusal of suitable work. Lack of local office involvement in selection and enrollment activities, or in approval of training does not raise a question of claimant eligibility. See Chapter 8 of this manual.

A claimant enrolled in CAT may also receive unemployment benefits if he meets the criteria set forth in Chapter 8 of this manual.

## **I. Retirement Pensions**

Section 96-14(9) of the Employment Security Law required that unemployment compensation payable to an individual for any week during which the individual is receiving governmental or other pension (except Social Security), retirement pay or annuity, or any other similar periodic payment that is based on previous work of the individual and paid under a plan maintained (or contributed to) by a base period employer shall be reduced by the weekly amount (rounded to the next highest dollar) of such payment.

This reduction in unemployment compensation applies only to retirement income collected by the person who actually earned this income. It does not apply, for example, to a survivor's or widow's or widower's benefit that is payable to a survivor and is not based on the previous work of that survivor. Likewise, temporary disability insurance payments and workman's compensation (including Black Lung benefits) which are not payable as retirement or pension benefits are not deductible.

While no comprehensive list of all types of deductible payments exists, retirement payments provided under the plans or programs listed below are considered deductible.

- State and local government pensions of all types
- Federal and Civil Service pensions, including disability pensions
- Private for-profit employer pensions
- Non-profit pensions
- Military retirement pensions and disability retirement pensions received from the branch of the military service in which he served (**disability payments from the Veterans Administration are not deductible**)
- Railroad Retirement annuities
- Benefits derived from Individual Retirement Accounts
- Benefits based on Keogh plans
- "Rollover" of distributions from a qualified trust into an eligible retirement fund. (If the "rollover", or any part of it, is subject to Federal income taxes, then that amount is considered reportable income. In such situations, any unemployment compensation must be reduced by the amount of the retirement payment that is based on the work of the individual. If the "rollover" is not subject to Federal income tax it is not a payment for retirement purposes; it is simply a change with respect to the retirement plan under which the accounts are maintained and no reduction of unemployment benefits is to be made.

**NOTE:** If the pension was contributed to in whole or in part by a company, who was later bought out by another company, it is reportable if the base period employer is a successor of the company who contributed to the pension plan. The employer account in the tax system shows successorship and can be used as a guide in making such a determination.

***Such retirement pension payments will be deducted immediately from unemployment benefits, regardless of whether the claimant has actually received a retirement check.*** The immediate deduction is designed to prevent overpayments to claimants whose pensions became effective on the first of the month, but who did not report the pensions until an actual check was received sometime later. Since the overwhelming majority of pension payments are made for time periods prior to the actual receipt of a payment and since the vast majority of claimants know both the amount and effective date of their pensions, it is advantageous to both the claimants and the Commission to begin pension deduction as soon as the effective date is known. Under such conditions, the claimants do not incur overpayments and the Commission does not have to set up and collect overpayments created by delayed pension deductions.

Implicit in this procedure is the identification of the pension effective date. Section 96-14(9) of the Law states that " The amount of benefits payable to an individual for any week...which begins with respect to which individual is receiving a governmental

or other pension... shall be reduced (but not below 0) by the amounts of any such pension...". Obviously, care must be taken to ensure that, in those rare instances when the claimant does not know the effective date of the pension that no deduction from unemployment benefits is made prior to the effective date. Accordingly, the first week that a pension payment could be deducted for a claimant whose pension became effective on June 1, 2004, is the week ending June 12, 2004, since the week ending June 5, actually began in May and is therefore prior to the June 1 effective date, it is not a week that began while the claimant was receiving a pension.

If the claim is filed in person the consultant must complete Form NCUI 563R, *Retirement Payment Determination*, in duplicate, whenever a claimant indicates receipt of a retirement payment (new or reopened claim or during a claim series). This form is an official decision from the commission and must be signed by both the claimant and the adjudicator. Enter the required data on Screen B1; the system will compute amount to be deducted weekly. On the following day, use Screen C1 to set and resolve issue 63. Give the original Form NCUI 563R to the claimant; retain a copy in the claim record file. If the claim is filed by telephone or internet and the claimant indicates they are receiving a reportable pension a Form NCUI 563R must be prepared in duplicate and mailed to the claimant for signature and return to the office/call center designated on the claim. Once the signed form is received issue Code 63 is resolved and any payment due the claimant can be released.

Emphasize to the claimant that it is his responsibility to report any change in his pension status.

Process *lump-sum retirement payments* which are attributable in whole or in part to a base period employer as follows:

- If either the claimant or the employer specifies a time period which the retirement payment covers, prorate the payment over that period.
- If neither the claimant nor the employer specifies a time period which the payment covers, consider the payment to be earnings for the week in which it was received.

#### BPS Data Entry Screen References

B1 – Initial Claim Information

C1 – Non-monetary  
Determinations

#### **J. Non-Citizens (Aliens)**

The Social Security Act provides that a state shall require as a condition of eligibility for benefits, that *any* individual who applies for unemployment insurance sign a declaration under penalty of perjury stating:

- Whether or not the individual is a citizen or national of the United States; and
- If that individual is not a citizen or national of the United States, that individual is in satisfactory immigration status.

If the individual is not a citizen or national of the United States, then that individual must present either:

- Alien registration documents or other proof of immigration registration from the Immigration and Naturalization Service (INS) that contains the individual's alien registration number or alien file number; or
- Such other documents as the State determines constitute reasonable evidence of satisfactory immigration status.

Follow the procedures described below to take an unemployment insurance claim for an individual who states that he is not a citizen of the United States. Ask the individual for his alien registration document ("green card") and / or immigration registration from INS, or other documents showing satisfactory immigration status. Make a photocopy for retention in the claim file if the claim is filed in person. Ask claimant to fax or mail a copy if the claim is filed by telephone or internet.

Depending on the response, take action as follows:

#### 1. Individual Cannot Provide Any Acceptable Documentation

If the individual cannot provide any acceptable form of documentation, have him complete section I, Other Issues/Additional Claimant Comments, of Form NCUI 500E, *Able and Available Fact Finding Report*. Take the claim and enter it into the system. The adjudicator will access Screen C1: set and resolve an issue the same day by entering "00" in the ISSUE ID field and "53" (Alien without lawful permanent Residence) in the ISSUE CODE field. The adjudicator will render a determination which holds the claimant ineligible for benefits until acceptable documentation of satisfactory immigration status is presented. Advise the claimant to file for benefits for each week that he meets all other eligibility requirements even though no payments will be made until he provides the required documentation.

If the claimant further contacts the agency with acceptable documentation showing satisfactory immigration status, take the actions described in item 2 below. In addition, access Screen C2 and enter the information needed to remove the ineligibility and to release the weeks for payment.

#### 2. Individual Provides Acceptable Documentation

If the individual has any acceptable form of documentation which contains his alien registration number, take the claim. Enter the data including the alien registration number into the system. Retain a photocopy of the registration document(s) in the claim record file.

The INS implemented a standardized alien employment authorization document (EAD) in July, 1990. Any alien who has a work authorization, is issued an EAD number (nine digits preceded by an "A"; e.g., A100 00 000)

To obtain pertinent information about the individual to whom a specific alien registration number was issued, use the internet to contact the Department of Homeland Security and access the Systematic Alien Verification for Entitlement System. The web URL is

<https://www.vis-dhs.com/WebOne>. When prompted, enter your user ID and password; then follow the system prompts to obtain the available information.

SAVE requires that a *nine* digit alien registration number be entered. Enter EAD number A123 456 789, issued to an individual who has no previous alien number on file, as 123 456 789. If an alien registration contains only seven or eight digits, enter sufficient leading zeros to make the total number digits entered equal to nine; e.g., if the A-number is A1 345 678, enter it into SAVE system as 001 345 678.

Save will either provide one of two responses. It will say "Lawful Permanent Resident" or "Institute Additional Verification". If it is necessary to institute additional verification that can be done while on line at this same web site.

In either case, SAVE will assign a verification control number to your request. SAVE will also provide the birth date, the country of birth, the correct spelling of first and last names, the social security number, if it is in the data base, and the employment eligibility status of the individual to whom that particular alien registration number is legally assigned. Use this information to ensure the authorization matches the information provided with the claim and also the last name match on the wage record file.

It is a best practice to print a copy of the response and include it in the claim record file. Note the verification control number and the individual's employment status on screen Y1. The verification number is a unique system-generated number that appears in the message area when a verification request is submitted. The first thirteen digits contain the year, day and time the request was submitted, encoded as follows: First four digits is the year, next three digits is the Julian date, next two the hour, next two the minute and the next two are the seconds. The last two characters in the verification number is an alphanumeric sequence numbers that helps to uniquely identify the case.

**Note:** *Occasionally, secondary verification should be initiated even though SAVE has not requested it. For example, if the information obtained from SAVE, such as date of birth, is obviously inconsistent with the information given to the interviewer or with the interviewer's observations, then secondary verification should be initiated.*

*Process the claim according to regular procedures. The additional verification is returned by INS on line. It is necessary to revisit the web site about 10 days after the additional verification is instituted. Enter the web site and click on 'Case Administration' and then 'View Cases' and there enter the data to make the inquiry. If the secondary verification shows that the individual is not in satisfactory immigration status, and therefore not authorized to work in the United States, prepare Form NCUI 500E and route the fact finding and other pertinent documents to the Office Adjudicator for determination on the issue of whether the claimant is able and available for work. If appropriate, complete Form UIC 72 and route it to the Revision Unit in the Benefits Department to have illegally earned wages removed from the system.*

### 3. Individual's Employment Authorization Has Expired

If the individual provides employment authorization which has clearly expired,

If the claimant returns with acceptable documentation showing satisfactory immigration status, take the actions described in item 2 above. In addition, access Screen C2 and enter the information needed to release the weeks for payment.

B1 – Initial Claim Information C1 – Set & resolve issues B2 –  
Initial Claim Employer Information Y1 – Claimant Comment C2 –  
Non-monetary Re-determination

If a claimant has worked as a professional athlete during the base period and it is currently between sports seasons, the claim must be adjudicated on the issue of availability for work. If the claim is being filed in person take the claim in the usual manner and ask the claimant to complete the fact finding form prior to leaving the office. The next day, access the Screen C3, and set Issue Code 52, ineligible between sports seasons. If the claim is filed by telephone or internet then a fact finding interview must be scheduled no sooner than eleven working days after the initial claim was filed. At the scheduled time, conduct the interview; complete the appropriate fact finding report and route it to the office adjudicator for a determination. Indicate on the fact finding report if the claimant is under contract, can return to training camp, or any other information that can clarify his attachment to a team.

B1 – Initial Claim Information	C3 – Establish Issue or Pension Amount	B2 – Employer Information
Initial Claim	Employer	Information

A seasonal worker is one who is employed by a business establishment that, due to seasonal conditions, customarily operates within a regularly recurring active period or periods of less than an aggregate of thirty-six weeks in a calendar year.

Seasonal wages are those wages paid to workers by a seasonal employer during the active seasonal period(s) of that employer.

All wages paid to a worker during his base period, seasonal and non-seasonal, are used to determine his benefit entitlement and weekly benefit amount. However, benefits based on seasonal wages can be paid *only* for weeks of unemployment which occur during the active period(s) of the seasonal employment in which those wages were earned.

A seasonal worker may receive benefits based on *non-seasonal* wages for weeks of unemployment which occur during an active period of the seasonal employment in which he earned base period wages, if he has exhausted all benefits based on seasonal wages. A seasonal worker may also receive benefits based on non-seasonal wages for weeks of unemployment which occur during the inactive period(s) of the seasonal employment in which he earned base period wages regardless of whether he has exhausted all benefits based on seasonal wages.

The Benefit Payment System automatically identifies and separates seasonal claimants into the following categories:

- a. One seasonal period, one seasonal employer, base period wages are 100% seasonal

The system automatically sets and resolves Issue Code 39, Seasonal Claim. The word "Seasonal" is entered in the EST-ID and RES-ID fields on Screen 02R, Non-monetary Determinations. Disqualification periods are entered under program control so that the seasonal benefits can be received only during the seasonal period. Depending on the BYB date of claim, one seasonal period may require the setting and resolving of two issues during the benefit year.

- b. One seasonal period, one seasonal employer, base period wages are less than 100% seasonal

The system automatically sets and resolves Issue Code 39, Seasonal claim. The word "Seasonal" is entered in the EST-ID and RES-ID fields on Screen 02R, Non-monetary Determinations. Disqualification dates which cover the seasonal period are entered under program control. The maximum benefit amount (MBA) is also reduced by the seasonal amount. If the claimant files during his seasonal period, ask the Regional Claims Specialist to issue an eligible re-determination for the seasonal period and restore the seasonal amount to the MBA.

#### **M. Exceptional Benefit Years**

The law defines benefit year as a fifty-two week period. There are two exceptions to that which cause the claim to be other than a fifty-two week period. These two exceptions are:

- (1) when the benefit year begins on the first day of a calendar quarter and (2) when the benefit year begins on the second day of a calendar quarter followed by a February 29 within one year. In these two instances, the law further defines benefit year as "the one-year period beginning with the first day of the week for which an individual first registers for work and files a valid claim for benefits". This means that a benefit year established under the first exception extends for 365 days; a benefit year established under the second exception extends for 366 days. Therefore, these exceptional benefit years

end on a Sunday or Monday of the 53<sup>rd</sup> week. Since the next succeeding benefit year must begin on a Sunday, these exceptional benefit years last for 53 rather than 52 weeks. This prevents the same quarter of wages from being used in two different benefit years.

#### BPS Inquiry Screen References

O2R – Non-monetary Determinations    M.SEM – Seasonal Employer  
W6 – Wage History File

### **3.6 Form NCUI 500AB, Notice of Claim and Request for Separation Information**

When on-line printing of Form NCUI 500 is selected and for claims filed remotely, Form NCUI 500AB is printed and mailed to the employer from the central office or is sent electronically according to the employer's preference. The system will supply the following information: the filing date, the address of the employer as entered on the B2 screen, the claimant's name and Social Security number, the effective date of the claim, the employer's account number, and the return address and fax number of the office where the claim was filed. If on-line printing of Form NCUI 500 is not selected, the claims taker must manually prepare Form NCUI 500AB and mail it to the employer. Whether mailed from the central office or the local office, the agency does not provide a self-addressed, postage-paid envelope for the employer to return the completed form.

**Note:** *Form NCUI 500AB is not mailed to the last employer for UCX, longshoremen, transitional, or attached claims, or to employers involved in a labor dispute.*

#### BPS Data Entry Screen References

B1 – Initial Claim Information

B2 – Initial Claim Employer  
Information

### **3.7 Form NCUI 500TW and NCUI 500TWC, Voluntary Election for Withholding of Individual Income Tax and/or Direct Deposit of Benefits.**

The NCUI 500TW is system generated and mailed to the claimant when a new initial claim is filed, whether a totally separated or attached claim and regardless of program type. Any claimant who wishes to have taxes withheld or have benefits direct deposited rather than receive a paper check must complete and return the form to the agency. The reverse side of the form is preaddressed to the Benefits Department where the form is processed. The form is retained for audit purposes.

The NCUI 500TWC is available on the agency web site for the claimant to use in the event a change is needed to the withholding amount or the claimant wishes to change the account to which benefits are being deposited or if the claimant wishes to discontinue direct deposit.

1. Claimants who elect Federal tax withholding will have it withheld at a rate



set by the Federal Government. It is a flat 10 percent rate and is the same for all claimants.

2. 2. Claimants who elect State tax withholding must specify the percentage of their benefits they want withheld. This percentage may range between 1 and 100 percent. It must be a whole percent as fractions of a percent are not allowed. Tax withholding amounts are computed on the gross benefit amount. Withheld amounts will be calculated using the Internal Revenue Service rounding standard (50 cents or more will be rounded up to the next highest dollar; 49 cents or less will be rounded down to the next lowest dollar).

3. 3. The tax withholding election is for a benefit year; it does not carry forward to a new benefit year.

4. 4. The Employment Security Commission is not responsible for refunding any withheld taxes to a claimant. The claimant must personally request any refunds from the Internal Revenue Service or the North Carolina Department of Revenue, as appropriate.

5. 5. Claimants who elect the Direct Deposit of benefits are required to sign the form. This is a requirement of the State Auditor's office and ensures that funds are sent to claimant at his home or bank as they elect.

6. 6. When entering the routing information on the form it should be noted that deposit slips do not have the correct routing information. The claimant should not use the deposit slip in lieu of a voided check.

7. 7. It is possible to make direct deposits to the claimant's savings account at a bank or credit union; however, the needed routing information is not on deposit slips for savings accounts. In most instances the claimant will need to take the form to their financial institution for assistance with providing correct routing information when the deposit is to be made to a savings account.

8. 8. The direct deposit process works as follows: When the claimant files a continued claim, it goes through the nightly batch update. Instead of generating a check, an electronic transfer of the funds moves the money to the ACH (Automated Clearing House). From there, the money is electronically sent to the claimant's bank. Different banks have different practices regarding direct deposits. Most banks make the funds available to the customer on the same day the funds transfer is received; however, any questions concerning this must be referred to the claimant's bank, as the agency has no control over the funds once they are transferred from its account. In most cases, benefits are available for deposit at the claimant's bank in two **bank business days** after the nightly update.

9. Direct deposit is not available to banks outside the United States, i.e. Canada,  
Virgin Islands or Puerto Rico.

### **3.8 Form NCUI 550L, On-Line Wage Transcript and Monetary Determination**

Monetary determinations can be generated and printed on-line in the local office for immediate delivery to separated claimants. Monetary determinations for attached claimants, interstate liable claimants, and those claimants filing remotely or who are not given a monetary determination in the local office will be prepared and mailed from the central office. Whenever wage transactions that affect a claimant's benefits are processed subsequent to the initial monetary determination, the Benefit Payment System automatically generates and mails a revised monetary determination to the claimant.

If there is an overpayment, an open issue, or an indefinite disqualification on a prior claim for an individual, a message to that effect will be entered on Form NCUI 550L, *On-Line Monetary Determination*, when it is printed.

### BPS Inquiry Screen References

O1 – Claimant Profile Data W6 – Wage History File O2R  
– Non-monetary Determinations

### BPS Data Entry Screen References

B1 – Initial Claim Information B6 – UCX Wage Calculations B2 – Initial  
Claim Employer Information C3 – Establish Issue or Pension Amount

## **3.9 Explanation of Wage Transcript and Monetary Determination**

Review the monetary determination with the claimant at the earliest opportunity and explain, as necessary, the following items.

- *Claimant's Name* – verify the name on the form is correct.
- *Program Code* – two digit number (prefix and suffix) indicates the program (UI, UCX, UCFE, etc.)
- *Effective Date of Claim* – date the claim is effective, not date the claim was filed
- *Base Period* – for a regular base period, the base period is the first four of the last five completed calendar quarters prior to the effective date of the claim. Covered wages paid to the claimant during this period are used to calculate the benefit entitlement.
- *Local Office Name* – name of the local office where claim was filed
- *Social Security Account Number* – verify that the Social Security number on the form is the claimant's Social Security number.
- *Base Period Employers* – a listing of the employers the claimant worked for during his base period (each employer's state unemployment insurance tax number, seasonal or non-seasonal designation for wages, and company name are shown).
- *Quarterly Wages* – a listing of the claimant's base period wages by quarter/year and by employer. Have the claimant review the listed employers and wages carefully. If the claimant contends that the employers or wages are incorrect or missing, complete Form UIC 72, *Protested Claim or Wage Transcript*, and route it to the Monetary Revision Unit in the Benefits Department.
- *Seasonal Wages* – the total amount of base wages, if any, received from a seasonal employer. Seasonal wages are always listed last and an identifier (seas) is displayed by the employer's name.
- *Non-Seasonal Wages* – the total amount of base period wages received from a non-seasonal employer
- *Total Wages* – the total amount of base period wages paid by employers

during the claimant's base period.

- *Total Amount of Wages Per Quarter* – the total amount of wages paid per base period quarter
- *Duration* – the maximum number of weeks of full benefits the claimant is entitled to receive (varies from thirteen to twenty-six)
- *Weekly Benefit Amount* – the maximum amount of money that an eligible claimant can receive each week.
- *Maximum Benefit Amount* – the total amount of benefits an eligible claimant can receive during his benefit year (the weekly benefit amount X the duration)
- *Earnings Allowance* – the amount of money a claimant can earn each week before his benefits are reduced on a dollar-for-dollar basis. The earnings allowance is also displayed on the Claimant Profile Data (01), Monetary Determination (06), and Benefit Payment History (07) screens. It can be computed manually by dividing the claimant's high quarter wages by 13 and multiplying the result by 10 percent (0.10). **Ineligible amount** is determined by adding the claimant's earnings allowance to his weekly benefit amount. If, in a given week, the earnings reported by the claimant equal or exceed his ineligible amount, then he cannot receive any unemployment benefits for that week.
- *Date Prepared* – the date the monetary determination was generated by the system.
- *Information* – various types of information may be printed here, e.g., reason claim did not establish monetarily, prior claim, etc.

### **3.10 Claimant is Monetarily Ineligible – Filing an Alternate Base Claim**

If the system determines the claimant lacks sufficient base period wages to establish a valid claim under the current base period (first four of the last five completed calendar quarters immediately preceding the effective day of the individual's benefit year) an alternative base period (the last four completed calendar quarters prior to the effective day of the claim) shall be substituted for the current base period. Two monetary determinations will be produced; the first reflects the monetarily ineligible claim from the regular base period and the second reflects the results from the alternative base period.

If a revision to a claimant's wage file occurs during the batch update that causes a previously monetarily eligible claim to become ineligible, the Benefit Payment System will automatically process the claim as an alternative base period claim. Both a revised monetary determination reflecting ineligibility under the regular base period and an alternative base period monetary determination will be generated and mailed to the claimant.

Benefit claims with an original program code of CWC, UCX or UCFE, are excluded from the automated process of moving to an alternative base period claim. If it becomes necessary to move such a claim to an alternate base claim a UIC 72 should be completed and sent to the Monetary Revision Unit requesting such a move.

A claimant who is also determined to be monetarily ineligible under the alternative base period may protest that Wage Transcript and Monetary Determination. Upon receipt of any such protest, staff in the Monetary Revision unit will follow existing procedures to identify any missing wages in the regular

and/or alternative base period. If wages sufficient to establish a valid claim are found, an eligible Wage Transcript and Monetary Determination will be issued. If the claimant who has been moved to an alternative base period is later found to also be eligible in the regular base period and the benefit year has not ended, the

claimant upon request may be returned to a regular base period.

**Note:** *An individual who lacks sufficient base period wages to establish a claim because of job related injury for which he has received worker's compensation may request an **extended base period**. Refer to section 2.4, E.1 of Chapter 2 for more information.*

### BPS Inquiry Screen References

O2R – Non-monetary Determinations O6 – Monetary Determination

### BPS Data Entry Screen References

C1 – Non-monetary Determination C2 – Non-monetary Re-determinations

## **3.11 Protesting the Monetary Determination**

O7 – Benefit Payment History

C3 – Establish Issue or Pension Amount

Section 96-15(b)(1) of the Employment Security Law allows a claimant 15 days from the earlier of the mailing date or the receipt date of his monetary determination to protest incomplete or incorrect information on the monetary determination.

To initiate a wage protest filed in person, complete Form UIC 72, *Protested Claim or Wage Transcript*. Attach any supporting documents such as W-2 forms, check stubs, or pay envelopes, etc. that substantiate the claimant's reason(s) for protesting. The claimant must sign the protest form. When a claimant who mails a protest to the monetary determination to an office or call center, a form UIC 72 must be attached and it must then be routed to the Monetary Revision Unit in the Benefits Department. If a claimant sends his monetary protest directly to the Monetary Revision Unit and if the claimant has provided sufficient information, a wage protest investigation may be undertaken without Form UIC 72. When the protest is mailed, the signature on the claimant's statement of protest is sufficient and the Form UIC 72 need only be signed by the originator of the form.

### **A. Eligible Monetary Determination – Missing Wages**

If the claimant has established an eligible claim and it appears that a protest will increase his weekly benefit amount (i.e., there are missing wages), advise the claimant that he will be paid the amount shown on the monetary determination until his protest can be investigated and resolved. Further advise the claimant that, if additional wages are found, he will receive a revised monetary determination, and an adjustment check for any claims paid at the old weekly benefit amount.

#### **B. Eligible Monetary Determination – Protest May Reduce WBA or Eliminate Entitlement**

Once begun, benefit payments to a claimant cannot be stopped until a determination holding the claimant ineligible is issued. Advise the claimant that, while the protest may ultimately cause his weekly benefit amount to be reduced or eliminated, he will be paid the amount shown on the current monetary determination until his protest is resolved. Further advise the claimant that, if his weekly benefit amount is reduced or eliminated, he will receive a revised monetary determination and an overpayment will be established on his claim record. Inform

the claimant that he will receive a letter explaining the overpayment and demanding reimbursement.

#### **C. Investigating the Protest and Issuing a Determination**

The Monetary Revision Unit in the central office will investigate each protested monetary determination according to the information submitted on Form 72, *Protested Claim or Wage Transcript*.

If the investigation finds that the claimant is monetarily ineligible or that benefits should be increased, the Monetary Revision Unit will enter appropriate data into the system to generate a revised monetary determination. Any otherwise eligible week claimed held pending the establishment of monetarily eligibility will automatically be released for payment, unless there is an unresolved non-monetary issue on the claim. Likewise, an adjustment check for any weeks paid at a lower weekly benefit amount will automatically be issued to the claimant provided claimant is otherwise eligible.

If the investigation reveals that the claimant's weekly benefit amount should be decreased or his eligibility withdrawn, the Monetary Revision Unit will enter appropriate data into the system to generate a revised monetary determination. An overpayment will automatically be established by the system which will also generate and mail the claimant a letter which explains the overpayment.

If the investigation finds no reason to revise the monetary determination, the Monetary Revision Unit will send the claimant a Form UIC 86, *Determination on Appealed Wage Transcript and Monetary Determination*, which explains why the monetary determination was not changed. The claimant will also be informed of his right to appeal this determination.

If the claimant wishes to appeal Form UIC 86, he should provide additional information substantiating the reason(s) for appeal in the appeals section of the form, and sign it.

The signed form, along with the original monetary determination and any other documentary evidence presented by the claimant, must be sent to/forwarded to the Monetary Revision Unit in the Benefits Department. If the protest is filed in person, tell the claimant that, if necessary, he will be allowed to personally present information about his appeal to a Commission representative; that he should attend any hearing about which he is notified, and that he will be made a party to any resulting proceedings.

#### **D. Re-qualifying for a Subsequent Benefit Year (Six Times Test)**

Section 96-12(b) (4) of the Employment Security Law describes the requirements for establishing a subsequent benefit year as follows:

“Qualifying Wages for Second Benefit Year. – An individual whose prior benefit year has expired and who files a new benefit claim is not entitled to benefits unless the individual has been paid qualifying wages since the beginning date of the prior benefit year and before the date the new benefit claim was filed equal to at least six times the average weekly insured wage, obtained in accordance with G.S. 96-8(22), and has been paid wages in at least two quarters of the individual's base period. ‘Qualifying wages’ are wages earned with an employer subject to the provisions of this Chapter or some other state employment security law or in federal service as defined in 5 U.S.C. Chapter 85.”

It should be noted that the timing of the payment of wages used to satisfy this requirement is of utmost importance. Things such as ‘severance pay’ must be reviewed carefully as it is often paid prior to the date an initial claim is filed.

If a claimant fails to re-qualify based on the ‘Six times test’ the claims taker must set a code 65 issue on the claim.

A claimant who wishes to protest failure to meet the six times test must provide proof of re-qualifying wages such as check stubs, W-2 forms, or statement(s) from covered employers (the EAN must be supplied on such statement from employers). Wages earned in self-employment cannot be used to meet the six times test.

Determine whether the wage information presented is sufficient to meet the six times requirement. If the claimant meets the requirement access screen C1 and resolve the issue as ‘allowed’. Using screen Y1 enter comments indicating the document(s) provided, the EAN of the employer and the dollar amount of the wages.

If the claimant cannot provide sufficient verifiable wage information to meet the six times test, access screen C1 and resolve the 65 issue as ineligible through the end of the benefit year.

Regardless of whether the six times test is met, enter an ‘N’ in the count data field to prevent the system from counting a non-monetary determination.

If an ‘ineligible’ claimant returns some time during the same quarter with verifiable proof of re-qualifying wages paid since first filing the second benefit year, access screen C2 and change the ineligible decision end date so that it is one day prior to the effective date of this new claim effective date. The next business day access screen A1 and

change the NIC date to be in agreement with this second filing of the second benefit year. Make appropriate comments using screen Y1.

If an 'ineligible' claimant returns with verifiable proof of re-qualifying wages after the quarter has changed, contact the Regional Claims Specialist for assistance in getting the ineligible claim withdrawn and a new claim filed. Access screen C2 and change the ineligible decision end date so that it is one day prior to what will be the new claim benefit year beginning date.

Make appropriate comments using screen Y1.

### **BPS Inquiry Screen References**

O6 – Monetary Determination O7 – Benefit Payment History O8 –  
Adjustment History O9 – Overpayment Data

### **BPS Data Entry Screen References**

B1 – Initial Claim Information Amount C1 – Non-monetary  
Determination

### **3.12 Screen A.ER, Eligibility Review Profile**

11 – Employer Charging W6 – Wage History File WRS – Wage Record  
Status

C3 – Establish Issue or Pension

Screen A.ER, Eligibility Review Profile, must be completed for or by each separated claimant. An Employment Consultant knowledgeable about the local labor market must review the completed form before the claimant files for the waiting period week. Screen A.ER is designed to identify potential problems and availability issues early in the claims series. It is also used to identify those claimants who must be scheduled for an initial eligibility review interview because their continuing attachment to the labor force is suspect.

Refer to Chapter 4 of this manual for additional information.

### **3.13 Preparation of Form NCUI 505, Claim Record Folder**

Form NCUI 505, *Claim Record Folder*, may serve as a convenient repository for claim

documents and, along with the data stored in the Benefit Payment System, provides a record of significant information concerning an individual's claim. Form NCUI 505 is prepared at the time a new claim is filed. Enter the claimant's name and Social Security number and the benefit year ending date of the claim on the form. ***Use of this form is optional.***

### 3.14 Employer's Separation Information

The following paragraphs contain instructions for processing separation information received from the employer.

#### A. Receipt of Separation Information

An employer has 15 calendar days to return agency generated forms requesting separation information (Forms NCUI 500AB, NCEB 500AB). The 15 calendar day period begins the actual day (irrespective of holidays or weekends) after the form is mailed. If the 15<sup>th</sup> day falls on a non State workday then the employer has until the next State workday to return the form. Upon receipt of Form NCUI 500AB, access the Screen B7-Employer Separation Information; enter the required separation information including reason for separation, separation notice postmark date and separation notice receipt date.

The mark applied by the employer's postage meter is not a post mark. The separation notice postmark and receipt dates may be the same if the form was mailed and a postmark date cannot be determined. The receipt date for a hand-delivered document or a document that bears no postmark (includes facsimile documents), is the date the document was received by the agency; stamp the receipt date on the document.

The Benefit Payment System uses the postmark and receipt dates to generate and mail Form NCUI 507, *Determination of Separation Information Denial*, to employers who do not return separation information timely, but who raise a separation issue not already set by the claimant. When Form NCUI 507 is generated, the system posts a special entry on Screen O2R which contains the issue Code (EA), the date the Form NCUI 507 was mailed, and the docket number (NCUI 507). ***This special entry will not stop payments; it should not be modified in any way.***

If the employer appeals Form NCUI 507, prepare Form UIC 40, *Receipt and Transmittal of Appeal*, and route it along with the statement of appeal, Form NCUI 500AB and its return envelope, and other pertinent documents to the Appeals Department. Appeals Department staff will use the information in the special entry on Screen O2R to complete the required fields of Screen I1 – Request for Appeal. An Appeals Referee or Special Hearing Officer will rule on timeliness of the separation information. If the separation information is ruled timely, the Appeals Referee may then either rule on the separation issue raised by the employer, or remand the case to an office/remote services center for fact finding on the separation issue.



The employer can elect to receive and respond to the request for separation information in an electronic transmission of Form NCUI 500AB. The employer may sign up for the e-Form 500AB by logging on to Business Services at the agency website using their account number and PIN and there access "Sign Up for UI Electronic Services". Designated staff must review the appropriate screen in the Benefit Payment System to determine whether any electronic reply has been routed to their cost center. When an electronic reply is received, staff must review the reply and take action. The appropriate action is the same as that action taken when a paper version of the Form NCUI 500AB is received with one exception, i.e., system processing of an electronic reply includes generation and processing of transaction B7 – Employer Separation Information. If appropriate, system processing will also set and resolve issue Code EA and generate Form NCUI 507.

#### **B. Separation Information Shows No Possible Disqualifying Issue**

If the claim is not before an adjudicator and the separation information from the employer does not indicate a possible disqualifying issue, enter the appropriate data on Screen B7. Form NCUI 507, *Determination of Separation Information Denial*, will not be issued. Retain Form NCUI 500AB and its envelope, if there is one, in the claim record file.

#### **C. Separation Information Indicates Separation Issue – Claim Not Previously Referred for Adjudication**

If separation information received from an employer (returned Form NCUI 500AB or other means) indicates a possible separation issue, and the claim has not previously been referred for adjudication, take the actions described in Item 1 or 2 below, as appropriate.

##### **1. Separation Information Returned Within 15 Calendar Days**

Complete the B7 transaction to enter the employer's response.

**If a weekly certification has not been filed** then set the appropriate issue using Screen C3. Maintain the employer's response for use should the claimant attempt to file late or file an NIE to reopen the claim. If the claimant does not attempt to file within four weeks of when he filed the initial claim the system will resolve the issue and in effect put it on hold should the claimant attempt to file further.

**If a weekly certification has been filed and payment has been made**, do not set a separation issue. **If a weekly certification has been filed and payment has not yet been made**, set the appropriate issue using Screen C3. Schedule the fact finding interview as quickly as possible. Notify the claimant of the date and reason for the scheduled interview. If the claimant fails to respond within five working days, note the failure to respond on the fact finding report. Send

the fact finding report, the form containing separation information (normally NCUI 500AB), and other pertinent documents to the Adjudication Unit. If an issue has not been set an adjudicator will set the separation issue. The adjudicator will render a determination and resolve the issue on the same day.

**2. Separation Information Not Returned Within 15 Calendar Days**

Complete the B7 transaction to enter the employer's response.

If the employer returns the request for separation information *after* 15 calendar days, **do not set a separation issue**. Information on the form may be used by the fact finder or adjudicator for purposes **other** than setting a separation issue; i.e., detecting separation pay not reported by the claimant.

Retain the returned separation form and its envelope, if there is one, in the claims record file.

The Benefit Payment System will automatically mail Form NCUI 507,  
*Determination of Separation Information Denial.*

**D. Separation Information Indicated Separation Issue – Claim Previously Referred for Adjudication**

Complete the B7 transaction and enter the employer's response. If the claim has already been referred for adjudication based on the claimant's separation information, take the actions described in Item 1 or Item 2 below as appropriate when the scheduled fact finding interview is conducted.

**1. Separation Information Returned Within 15 Calendar Days**

If the employer returns the agency's request for separation information within 15 calendar days, conduct the fact finding interview as scheduled. Route the fact finding report and the form containing separation information, along with any other pertinent documents, to the Adjudication Unit.

**2. Separation Information Not Returned Within 15 Calendar Days**

If the employer does not return the request for separation information or returns it after 15 calendar days, conduct the fact finding as scheduled. Indicate on the fact finding report that the request for separation information was either not returned, or was returned after the allowable 15 day period, but was not used to set a separation issue. Route the fact finding report, the form containing separation information and any other pertinent documents to the Adjudication Unit.

**Note:** Since the separation issue was raised by the claimant, the employer's information, although late, may be used by the fact finder or the adjudicator for purposes of making their decision. It may also be used for detecting separation pay not reported by the claimant.

**E. Separation Information Received Indicates Previously Unreported Separation Payment**

A benefit year, once established, is not automatically voided if it is subsequently learned that a separation payment was or will be paid to the claimant. When this situation occurs, take the actions described below as appropriate.

1. 1. If information about a separation payment is reported by the claimant, consider the separation payment to be *earnings*.
2. 2. If the employer reported separation information on Form NCUI 500AB, and no separation issue is shown, consider the separation payment to be *earnings*.
3. 3. If separation payment is reported by the employer on Form NCUI 500AB, and there is also a separation issue, send Form NCUI 500AB to the Adjudication Unit as a part of the fact finding file in the usual manner. The adjudicator will rule on both the separation issue and any disqualifying income issue. If there is a week that includes severance pay below the ineligible amount and the claimant failed to report it, the adjudicator will forward the matter to the Benefit Payment Control Unit for the necessary correction.
3. 4. If a change in earnings or separation pay will result in an overpayment, notify the Benefit Payment Control Unit through electronic mail. Show the gross amount of earnings or separation pay, the employer(s) involved, the weeks affected by the earnings or separation pay, the source of the information, and a brief explanation why the earnings or separation payment was not reported when the claim was filed.
4. 5. If there is evidence of possible fraud prepare Form UIC 78, *Request from Local Office for Investigation of Questionable Activity*, and send it to the Benefit Payment Control Unit.

### **3.15 Taking a New Claim for Attached Employment**

Each new attached claimant who files his claim in person at the local office must be given a benefits rights interview. While this interview differs slightly from the one given to a separated claimant, it covers essentially the same information. Chapter 2 of this manual explains the benefits rights interview process in detail.

If the claimant's employer submits the attached new claim directly to the central office, the employer is required to give Form NCUI 517X, *Information about Unemployment Insurance for Workers on Temporary Layoff*, to the claimant. This form contains essentially the same information that is provided in a benefits rights interview.

### **3.16 Preparation of Form NCUI 501, Benefit Claim for Attached Worker**

Form NCUI 501, Benefit Claim for Attached Worker, is normally prepared by the employer. By completing this form, the employer certifies that the worker is still attached to the employer's payroll, but during the payroll week, was partially or totally unemployed. The employer mails completed Forms NCUI 501 directly to the Benefits Department for processing.

**Exception:** *If the worker is an alien, is receiving a pension, has UCX or UCFE wages, or needs to file an interstate or combined wage claim, or if there are circumstances which raise a possible issue, the employer will give Form NCUI 501 to the worker and instruct him to report to the nearest local office to file his claim in person. Instructions for processing these exceptional claims*

*are described elsewhere in this manual.*

Employers may also file new claims for attached unemployment on magnetic tape or diskettes or over the internet. Procedures for filing new attached claims using electronic methods differ slightly from those for filing new attached claims on Form NCUI 501. Chapter 7 of this manual contains detailed information about filing of attached claims by magnetic tape, diskette or internet.

**Note:** *Local office staff should advise employers who have no means to file electronically or whose workers fall into one of the exceptions to request blank Forms NCUI 501 by letter or telephone call to the Assistant UI Director for Benefits Administration in the Benefits Department.*

The employer must complete Form NCUI 501 according to the instructions on the form and the following guidelines.

#### **A. Wages Shown by the Employer**

Item 15 on Form NCUI 501 should show the total amount of earnings for the week(s) in question, including pay which was paid or payable with respect to any part of that week(s), holiday pay, and any part-time or odd job earnings.

Section 96-8 (10) of the Employment Security Law (also see interpretation No. 264, Supplement 1, dated June 9, 1987) limits unemployment for an attached claimant to those instances in which the individual works or is paid "less than three customary scheduled full-time days" or 60% of the customary scheduled full-time hours. The intent of the Law and the Interpretation is to prevent an employer from using incentive or production pay to determine the number of hours "effectively" paid during a given week. However, any other wages or pay including bonus, vacation pay, and holiday pay must be applied in determining whether the three days or 60% threshold has been met.

Even though a claim may show excessive earnings (earnings which equal or exceed the claimant's weekly benefit amount and earnings allowance) for the payroll week involved, it may still be used to establish a benefit year. The week, however, cannot be used for waiting period credit nor can it be paid.

#### **B. Effective Date of New Attached Claim**

The effective date of a new attached claim is the Sunday before the payroll week-ending date shown on Form NCUI 501. If the employer's payroll week-ending date is a Sunday, the effective date of the claim is the previous Sunday

#### **C. New Attached Claim with an Issue**

If an able and available issue (refusal to work all available hours during a payroll week) is raised at the time a new attached claim is filed, the employer will make a statement to that effect on Form NCUI 501. He will instruct the claimant to take the form to the nearest local office and file the claim. When the claimant reports to file the claim, take the following actions:

- . \ Access Screen B1/B2 and enter the claim into the system.
- . \ Conduct a fact finding interview and route the case to the local adjudicator who will rule on the able and available issue.
- . \ On the next workday, after the B1 and B2 transactions have processed, use Screen C1 to set and resolve the issue.
- . \ Write "Issue" and the docket number of the non-monetary determination in red at the top of Form NCUI 501 and send it to the Intrastate Unit in the Benefits Department for posting.

#### **BPS Data Entry Screen References**

B1 – Initial Claim Information C1 – Non-monetary Determination B2 –  
Initial Claim Employer Information

#### **D. Retirement Pensions**

If the employer learns that the claimant is receiving a monthly retirement pension which is applicable to the week(s) of attached unemployment, he will instruct the claimant to take Form NCUI 501 and pertinent information about the pension to the nearest local office.

If the pension is deductible, complete Form NCUI 563R, *Retirement Payment Determination*, in duplicate.

If the claim will establish a new benefit year, enter the weekly pension amount when completing the Screen B1. On the next work day, access Screen C1; set and resolve the pension issue.

If the attached claim is a continued claim, access Screen C3; enter "OO" in the ISSUE CODE data field and enter the monthly pension amount in the RETIREMENT PENSION AMT field. Then access Screen C1, set and resolve the pension issue.

Post "Pension" in red at the top of Form NCUI 501 and route it to the Intrastate Unit in the Benefits Department for posting of the weekly certification after the B1 transaction is processed. Give the claimant the original Form NCUI 563R; retain the copy in the claim record file.

#### **BPS Data Entry Screen References**

B1 – Initial Claim Information C3 – Establish Issue or Pension Amount  
C1 – Non-monetary Determination

#### **E. Correcting Information on Form NCUI 501**

Normally, employers send Forms NCUI 501 directly to the central office for processing. Occasionally however, situations occur which cause an employer to give Form NCUI 501 to the claimant and instruct him to report to the nearest local office for assistance in filing his claim(s). Process attached claims that involve possible issues or deductible retirement pensions in

accordance with the instructions in Items C and D above.

To request corrections such as a change in base period quarters, wages, Social Security numbers, or cancellation of a benefit year, etc., prepare Form UIC 72, *Protested Claim or Wage Transcript*. Route the completed UIC 72 and any related documents to the Monetary Revision Unit for further processing.

**Note:** *If asked, please advise employers to enter "zeroes" (000) in the Country of Residence block on Form NCUI 501 for any claimant who files in North Carolina, but resides in another state.*

### **3.17 Filing Attached Claims by Tape, Diskette and Internet**

As mentioned earlier, employers may elect to file attached initial and/or continued claims on magnetic tape, diskettes or internet. Employers who use one of these optional filing methods are not required to prepare Form NCUI 501 for each worker filing an attached claim.

Chapter 7 of this manual contains detailed information and instructions applicable to these alternative filing methods.

### **3.18 Employer Fails to Submit Form NCUI 501**

Occasionally, an individual reports to a local office and states that the individual's employer will not submit Form NCUI 501, *Benefit Claim for Attached Worker*, for employees who are working less than full time. In such instances, the local office manager (or the manager's designee) must contact that employer to determine whether the individual is actually on temporary layoff and whether Form(s) NCUI 501 will be submitted for the week(s) in question. If the employer states that the employee is on temporary layoff and that Form(s) will be submitted, notify the worker of the employer's statement and the approximate date on which the claims are likely to be processed.

If the employer acknowledges that the employee is working less than full-time, but states that temporary layoff forms will not be submitted, inquire as to whether the week is a declared plant vacation week. If not, explain that Employment Security Commission Regulation No. 9.11(A) requires an employing unit to issue Form NCUI 501, *Benefit Claim for Attached Worker*, to any employee who works less than 60% of the customary full-time work week due to lack of work. Point out that individuals on temporary layoff are not required to seek new employment, thus allowing the employer to retain skilled workers.

If the employer still refuses to submit Form NCUI 501, explain that any of the employer's workers who wish to file claims without Form NCUI 501 will be considered to have been separated from the employer's payroll, and will be required to look for and accept other suitable work. Also inform the employer

that Form NCUI 500AB, *Notice of Initial Claim and Request for Separation Information*, will be received for each worker who files for benefits.

When the employer refuses to submit Form NCUI 501 for an employee, inform the employee that it will be necessary to file a totally separated claim in order to receive benefits. Explain that as a totally separated claimant, the individual will have to register for work with the job service, and would have to meet all eligibility requirements, including, looking for and accepting other suitable work. If it has been more than 28 days since the payroll week-ending date of the week(s) in question, explain to the individual that an issue of antedating must be raised and adjudicated. If the claimant wishes to file under these conditions, take and process a new separated claim according to the instructions in Chapter 3 of this manual.

### **3.19 Optional Preparation of Claim Record Folders for Attached Claimants**

*Claim Record Files*, need *not* be prepared for an attached claimant unless the individual's claim falls in one of the categories considered exceptional. In this context, exceptional means an attached Claim which may involve one of the following criteria: eligibility issue, pension, protested monetary determination, 10 times test certification, or when the attached claimant becomes totally separated.

Prepare claims files for attached UCFE and UCX claimants due to the number of forms involved.

Such files are maintained in the same manner as other claims files. The NCUI 505 is an optional repository for file maintenance.

### **3.20 Form NCUI 551, Notice of Initial Claim and Potential Charges to Your Account**

Whenever a new claim is processed, Form NCUI 551, *Notice of Initial Claim and Potential Charges to Your Account*, is generated and sent to each base period employer who is experience-rated or 120% reimbursable **except** one who is also the claimant's last employer. Form NCUI 551 notifies a base period employer, who is not the last employer, that a former or current worker has filed a claim for benefits based either wholly or in part on wages paid by the employer; it provides that employer an opportunity to request non-charging of these benefits, if he believes non-charging is warranted; and, it also gives the employer an opportunity to offer re-employment to the claimant.

**Note:** Form NCUI 551L, *Notice to Last Employer*, is sent to an experienced-rated or 120% reimbursable employer who is **both** the last employer and a base period employer. This form contains the same information as Form NCUI 551. However, it cannot be used to request non-charging; returned Form NCUI 500AB, *Notice of Claim and Request for Separation Information*, serves as a non-charging request for such employers.

*Depending upon the type of claim filed and whether the employer is*

*experience-rated, 100% or 120% reimbursable, another variation of Form NCUI 551 is sent to each base period employer. These variations include Form NCUI 551C, Notice of Combined Wage Claim and Potential Charges to Your Account; Form NCUI 551CR, Notice of Combined Wage Claim and Potential Charges to Reimbursable Employer; For NCUI 551R, Notice of Initial Claim and Potential Charges to Reimbursable Employer; and, Form 551T, Notice of Initial Claim and Potential Charges for Claimants on Temporary Layoff.*

All versions of NCUI 551 provide the employer with information about the claim, including the claimant's name and Social Security number, benefit year beginning date, earnings allowance, the office where the claim was filed, percent of total base period wages paid by the employer, total base period wages paid to the claimant, the dollar amount of wages the employer paid the claimant during each base period quarter, the maximum potential charges to the employer's experience rating account, and the employer's account number.

If an employer contacts the local office about a specific Form NCUI 551, only offer general information about the purpose of the form. Advise an employer with specific questions about his individual account to contact the Benefit Charges Determination Unit in the Benefits Department or the nearest Field Tax Auditor. Provide the employer with the appropriate mailing addresses and/or telephone numbers.

### **3.21 Reopened Claims**

A reopened claim is a certification to the beginning date of a subsequent claim series within an established benefit year. There are three types of reopened claims: additional initial claims (AIC), additional intervening employment (AIE) claims and no intervening employment (NIE) claims.

#### **A. Additional Initial Claim (AIC)**

An additional claim is filed when a claimant has had employment since filing his last claim series within an established benefit year, and there has been a break of one or more weeks caused by that employment.

#### **B. Additional Intervening Employment (AIE) Claim**

An additional intervening employment claim is filed when a claimant has had employment since filing his last weekly certification within the existing benefit year, but that employment did *not* cause a break in the claim series. The lack of a break in the series was due to the short duration of the employment or to the fact that the employment was less than full-time.

#### **C. No Intervening Employment (NIE) Claim**

A no intervening employment (NIE) claim is filed when a totally separated claimant has had no employment since filing his last claim within an existing benefit year, but there has been a break of one or more weeks in the claim series.



### **3.22 Taking Reopened Claims**

Procedures for taking and processing reopened claims are essentially identical to the procedures for taking and processing new claims. The following paragraphs provide a synopsis of the actions performed to reopen a claim.

#### **A. AIC's for Separated Claims**

Take an AIC when a claimant who has gone back to work, causing a break in his claim series of a week or more, is separated from that employer and requests to reopen his claim.

Conduct a benefits rights interview. Access Screen B1/B2 and enter the appropriate information to reopen the claim. Instruct the claimant to resume filing weekly certifications.

If there is a separation issue, enter the appropriate issue code on Screen B2 to set the issue. If the claimant is filing in person request that the appropriate fact finding be completed before leaving the office. If the claim is filed by telephone or internet schedule the claimant for a timely fact finding interview.

Form NCUI 500 may be generated from Screen B1/B2 entries and printed online. Refer to Section 3.5 of this chapter.

#### **BPS Data Entry Screen References**

B1 – Initial Claim Information B2 – Initial Claim Employer Information

#### **B. AIC's for Attached Claims**

When an attached claimant's earnings exceed his ineligible amount, or there is a break of one or more weeks in the claim series caused by employment, the Benefit Payment System automatically creates an AIC when the next week claim is processed.

#### **C. AIE's for Separated Claims**

Take an AIE when a claimant, whose return to work during an existing benefit year did *not* create a break in the claim series because the new employment was of such short duration or was less than full-time, requests to reopen his claim.

Access Screen B9 to add employer information and generate Form NCUI 500AB, *Notice of Claim and Request for separation Information*. Instruct the claimant to resume filing weekly certifications.

If a separation issue is raised by the claimant or the employer's timely

response to Form NCUI 500AB, schedule the claimant for fact finding as quickly as possible. Advise the claimant to continue filing for benefits. Route the completed fact finding report, Form NCUI 500AB and its envelope, if there is one, to the Adjudication Unit in the central office. *Do not set an issue.* The adjudicator will set and resolve the issue when the determination is rendered.

**Note:** *If a separated claimant reports earnings on his weekly certification that are less than his ineligible amount, and also reports separation from employment during the week being claimed, the Benefit Payment System will automatically set issue code 27 when the week claimed is processed. The claimant will be sent/given a message advising of the unresolved issue and how to report to the agency for assistance. When the claimant reports, take actions described in the preceding paragraphs of this section.*

#### BPS Data Entry Screen References

B9      –      Additional      Intervening      Employment      Information

#### **D. NIE's for Separated Claims**

Take an NIE when a claimant who has had a break in the claim series of a week or more which was not caused by employment requests to reopen their claim.

Conduct a benefit rights interview. Access Screen B1 and enter the appropriate information to reopen the claim. This transaction will also generate an open pay order for the benefit week subsequent to the NIE effective date. Instruct the claimant to resume filing for benefits.

Since the Benefit Payment System provides an electronic audit trail of claim record changes, it is not necessary to obtain the claimant's signature on an NIE claim form. Claims staff may wish to use Screen Y1—Claimant Comment Data Entry, to post pertinent comments to the claim record regarding these requests.

#### BPS Data Entry Screen References

B1 – Initial Claim Information Y1 – Claimant Comment

#### **E. Antedating Reopened Claims**

If a claimant requests backdating of his reopened claim, follow the instructions and procedures described in Section 3.5 D., *Backdating New and Additional Claims*.

### **3.23 Transitional Claims**

If a claim series is in effect when a benefit year ends, take a new claim effective the day following the benefit year ending date. Form NCUI 500 may be generated from entries on Screens CD, B1 and B2 printed on-line. See section 3.5 of this manual for rules regarding signatures on this form. *Enter the claimant's last*

*employer, the employer's correct address, correct employer account number and "lack of work" as the reason for separation on Screen B2. When entering the dates of employment it is important to use the exact same dates of employment as are already in the system from the prior claim. Use the dates of employment supplied by the claimant on the prior claim unless the claimant gave a cause of separation that failed to set an issue and the employer response later caused the setting of an issue. For example: If the claimant says the separation was due to a lack of work and the employer response said it was due to absenteeism thus causing an issue to be set and an adjudication to take place, then use the dates of employment supplied by the employer. Entering the correct dates of employment and correct employer account number allows the charging system to provide non-charging to the employer when appropriate. The fact that it is a transitional claim prevents the mailing of form NCUI 500AB therefore the employer will have no other way to protect their account.*

#### **BPS Data Entry Screen References**

B1 – Initial Claim Information B2 – Initial Claim Employer Information

### **3.24 Transferring Claims**

There are three situations in which a claim may be transferred from one North Carolina office to another or from an interstate status to a North Carolina office. It is always the claimant's choice from which office he obtains services. Where a claimant lives does not in any way determine to which office his claim is assigned. Claim assignment does determine where a claimant must report when requested, therefore; claimant should be encouraged to select an office convenient to travel to and from.

#### **A. Claimant Requests Transfer of an Intrastate Claim**

If a totally separated claimant reports to an office and requests that his claim be transferred from another North Carolina office,

1. 1. Access the appropriate data entry screen (A.CD & CH) and make the necessary changes in the claimant's records.
2. 2. Access the appropriate screens in the ESC System (CC & OI) to update commuting distance, salary requirements, etc.
3. 3. Access the ER screen and record new work search plan as necessary.
4. 4. Advise claimant of the correct VRU number if weekly certifications will be filed by telephone.

#### **BPS Inquiry Screen References**

O1 – Claimant Profile Data 13 – Benefit Payment History No. II  
O2R – Non-monetary Determinations 26 – ERI Information  
O7 – Benefit Payment History CD – Client Data Screen

### BPS Data Entry Screen References

CD – Client Data Screen B2 – Initial Claim Employer Information  
B1 – Initial Claim Information (optional)

#### **B. Claimant Requests Transfer of an Interstate—North Carolina Agent State**

If a claimant who is filing an interstate claim wishes to transfer their work registration from one North Carolina office to another, take the following action.

1. The request must be made by the claimant to the office where the work registration will be transferred.
2. 2. Access the Employment Security Client System and make appropriate changes on the Employment Client Data (CD & CH) System, including changing claimant's address and phone numbers as necessary.
3. 3. Assist the claimant in notifying the liable state of any address change necessary.

#### **C. Claimant Requests Transfer from an Interstate Claim to an Intrastate Claim**

If a claimant who is filing an interstate claim with North Carolina as the liable state (from a location outside N.C.) returns to North Carolina to continue filing his claim, he must contact a North Carolina office of his choosing and request the following action:

1. 1. That claimant's address and local office number in the Employment Client Data (CD & CH) System be updated; this will automatically update the Benefit Payment System Records.
2. 2. If necessary update the CC & OI screens.
3. 3. Access the ER screen and complete the work search plan.
4. 4. If payment is being made by direct deposit and a different bank will be used, Form NCUI 500TWC must be completed.
5. 5. Advise claimant of the local VRU number used to file weekly certifications by telephone.

### BPS Inquiry Screen References

O1 – Claimant Profile Data 13 – Benefit Payment History No. II O2R – Non-monetary Determinations 26 – ERI Information O7 – Benefit Payment History CD – Client Data Screen

### BPS Data Entry Screen References

CD – Client Data Screen B2 – Initial Claim Employer Information B1 – Initial Claim Information (optional)

#### **D. Claimant Requests Transfer from an Intrastate Claim to an Interstate Claim**

If a claimant who is filing a North Carolina intrastate claim wishes to transfer to an *NC Interstate Claim* status, he must contact the Interstate Call Center by telephone. Upon request the consultant will take the following action:

1. 1. Access the Employment Security Client System and the appropriate changes on the Client Data (CD) screen, including changing claimant's address and phone numbers as necessary. The consultant will change the claim local office to 0000.
2. 2. Access the Client Control Change (CH) screen and complete the transfer registration section. Enter local office 1270.
3. 3. Access the Client Characteristics (CC) screen and update as appropriate, taking note especially of changes in transportation arrangements and commuting distance at the new location.
4. 4. Access the Occupational Information (OI) screen and update as appropriate, taking note especially of changes in lowest acceptable wage and shift availability.
5. 5. Access the Eligibility Review (ER) screen and complete all items if not already completed. Enter a new work search plan.
6. 6. Access the Benefit Payment System Initial Claim (B1) screen. Do a reopen claim transaction.
7. 7. Provide new contact numbers for inquiry and VRU and advise claimant that he must register with the Employment Security agency at his new location within five (5) work days to complete a work registration

#### **3.25 Declared "Plant" Vacation Weeks**

A vacation week is any week (of at least three days) which an employer declares as a vacation week. Only two weeks in a calendar year can be declared vacation weeks. While an employer is not required to give workers written notification of the vacation week(s), he must inform the affected workers before the vacation period begins.

A worker is not eligible for unemployment benefits for declared vacation weeks regardless of whether or not he received pay for the week(s). An employer is not required to have work available for the affected employee(s) at the end of the vacation period.

If an individual insists on filing a claim for vacation week(s) after an explanation that he is not eligible for benefits during an employer declared vacation week(s), take the claim in the normal manner. Access Screen C3 and set an availability issue. Complete a fact finding report and route it to an Adjudicator.

#### **BPS Data Entry Screen References**

C3 – Establish Issue or Pension Amounts C1 – Non-monetary Determinations

#### **3.26 Labor Disputes**

When an individual's partial or total unemployment is due (1) to an active labor

dispute at the factory, plant, etc. where he works or last worked; or (2) to an active labor dispute at another factory, plant, etc., owned by the same employing unit, which causes the materials or services necessary for operation of the individual's factory, plant, etc. to become unavailable, that individual is disqualified from receiving unemployment benefits for as long as the labor dispute is in active progress.

An individual who works for another employing unit and who is unemployed because the materials or services which his factory, plant, etc., supply to a striking factory, plant, etc. are no longer needed, is **not** disqualified from receiving benefits under the labor dispute provisions.

**A. Processing Labor Dispute Claims** Perform the following actions to process a claim for a worker who is unemployed because an active labor dispute.

Take the claim in the usual manner. Set issue code 30; Labor Dispute. Thereafter, the claimant files weekly certifications in the customary manner.

Mail a manually prepared copy of Form NCUI 500AB to the employer; attach a statement notifying the employer that the claim has been filed due to a labor dispute. Ask the employer to provide to the local office within five (5) days of the receipt of the notice, a list of the names, Social Security numbers, and complete mailing addresses (including zip codes) of all employees affected by the labor dispute. Further, ask the employer to include a statement which contains the following information:

- .       \ the first day of unemployment for the affected employees;
- .       \ the reason for the labor dispute
- .       \ the place where the dispute is (or was) in progress;
- .       \ the name, address, and telephone number of the employer and employer representative; and
- .       \ the name, address, and telephone number of the employee representative or bargaining agent (union, local number, etc.), if any, and the name, address, and telephone number of the bargaining agent's representative.

When the list is received, review it to ensure that it contains the required information; then mail the list and the statement to the Chief Counsel. Retain a copy of the list in the local office or remote services center.

The Chief Counsel or his designee will review the matter and determine whether an issue of unemployment due to a labor dispute exists, and whether the list complies with ESC Regulation No. 22.12. If the Chief Counsel finds that no issue of unemployment due to a labor dispute exists, he will refer the matter for adjudication. If the Chief Counsel finds that an issue of unemployment due to a labor dispute exists, the Chairman will refer the matter in writing to a Special Deputy Commissioner for disposition.

After consulting with the Chief Counsel, the office manager will determine the appropriate method for taking the labor dispute claims. Do not send a copy of Form NCUI 500 to the employer. Retain these copies for use by the Special Deputy Commissioner or for disposition as directed by Chief Counsel.

If an individual wishes to file a claim *after* any designated time arranged for taking claims, but *before* the hearing, take the claim, secure a statement from the claimant as to why he did not report at the scheduled time, and hold these documents for the Special Deputy Commissioner.

A designated Special Deputy Commissioner assigned to hold and decide the matter will determine which individuals are interested parties to the hearing. The Chief Counsel will provide notice of hearing to the interested parties including employees, employers, and attorney of record, or legally qualified representatives of record.

If an individual wishes to file a claim *after* the hearing has been held, take the claim and send a copy to the Chief Counsel, calling attention to the labor dispute decision.

#### **BPS Data Entry Screen References**

B1 – Initial Claim Information B2 – Initial Claim Employer Information

### **B. Adjudication and Appeal Rights**

Labor dispute claims will be adjudicated by a Special Deputy Commissioner. All interested parties will receive a notice of hearing. Any appeal of the Special Deputy Commissioner's decision must be made to the Chairman of the Employment Security Commission.

### **3.27 Processing Claims for Former ESC Employees**

The variations in regular procedures described below are to be followed when processing claims for former employees of the Employment Security Commission.

#### **A. Requesting Separation Information on Former Commission Employees**

When taken in person the claims supervisor must take all new claims on former Commission employees. In the absence of the supervisor, the designated acting claims supervisor will take the claims. Forward any Form NCUI 500AB requesting separation information about a former Commission employee directly to the agency Personnel Officer. The Personnel Officer will respond to the request on behalf of the agency and will return the annotated Form NCUI 500AB to the appropriate office.

If the claimant raised a separation issue and / or if the returned Form 500AB is timely and raises an issue, prepare the fact finding report. Send the fact finding report, Form NCUI 500AB and other pertinent documents directly to the Assistant UI Director for Benefit Claims Administration.

The Assistant UI Director for Benefit Claims Administration or designee will prepare a hearing file, render a determination on the separation issue, and post the decision to the claim record. Fact Finding files for such cases will be retained by the Assistant Director.

Send any appeal from this determination directly to the Assistant UI Director for Benefit

Claims Administration. Upon receipt of the appeal, the entire official record will be forwarded to the Chairman for further action and a decision.

#### BPS Data Entry Screen References

C3            –            Establish            Issue            or            Pension            Amounts

### **B. Claimant Who Was Last Employed by ESC Refuses an Offer of Work with ESC**

If a claimant who was last employed by the Commission refuses an offer of work by the Commission, do the following:

1.        1.        Prepare a fact finding file.
2.        2.        If no weeks have been filed, access Screen C3 and set issue Code 04 (Failed without good cause to accept suitable work).
3.        3.        If payments have already started, do not set the issue.
4.        4.        Send the fact finding report and other pertinent claim documents to the Assistant UI Director for Benefit Claims Administration.

#### BPS Data Entry Screen References

C3            –            Establish            Issue            or            Pension            Amounts

### **C. Part Total Claims for ESC Employees**

Intermittent or temporary employees of ESC who work less than the equivalent of three customary full-time days may be entitled to unemployment insurance if they are otherwise eligible. Those individuals, for purposes of unemployment insurance, should be considered separated claimants. They must meet all of the eligibility requirements for separated claimants. Earnings should be reported by the claimant when filing weekly certifications.

### **D. Taking New Claims on Part Total ESC Employees**

When a part total claim is filed in person by a current agency employee the claims supervisor must take the new claim. An agency employee who might have just cause to file an unemployment claim while still in employment of the agency shall not complete by any means (pen, electronic or fax) any document or form(s) on behalf of the agency or any employer in connection with such claim. The employee/claimant shall not misroute or terminate the routing of any form or document necessary for the processing of the claim. The employee/claimant shall not tamper with, mutilate, alter nor destroy any form or document prepared in connection with the claim not do the same to the claim record file. The employee/claimant shall notify their immediate supervisor, who shall notify the department head or office manager that such a claim is being filed and shall ensure that they continue to be aware that the claim is being filed so long as weekly certifications are filed. The immediate supervisor shall also promptly notify the Internal Security Unit of the filing of such claim.



### 3.28 Removal of Indefinite Disqualifications Less than Two Years Old

The Employment Security Law allows an indefinite disqualification to be removed for an individual who: (a) returns to work for at least five weeks and is paid cumulative wages of at least 10 times his weekly benefit amount; (b) subsequently becomes unemployed through no fault of his own; and (c) meets the availability requirements of the law.

**Note:** *Work is defined as any bona fide permanent employment. Wages earned in self-employment cannot be used to remove an indefinite disqualification.*

Employment Consultants have both the responsibility and the authority to remove indefinite disqualifications that have been in effect less than two years. Consultants must thoroughly question individuals who wish to have indefinite disqualifications removed to determine whether the requirements of the law have, in fact, been met. Check stubs, payroll/wage records, information on Screen W6—Wage History File, or calls to employers may provide evidence that the individual has met the stated criteria. Special care should be taken when non-covered employment by claimant's friends or relatives is used to remove a disqualification. This will protect the claimant if allegations are later made and will also ensure the integrity of the system. Copies of all documents used should be kept in the claim record file.

If an individual cannot provide adequate evidence to show that they have met the stated criteria to remove the disqualification, an adjudicator should issue a determination to that effect. This determination may be appealed.

If the individual meets the requirements to remove the disqualification, take action as follows

#### A. Claimant's Separation Statement Raises No Issue

1. 1. Prepare and process the initial claim.
2. 2. Prepare Form NCUI 564, *Certification to Remove Indefinite Disqualification*. **Do not remove the prior disqualification at this time.** Place the completed form in a "Pending" file; hold it for at least 11 working days pending return of Form NCUI 500AB, *Notice of Claim and Request for Separation Information*.
3. 3. If Form NCUI 500AB is returned timely and shows no disqualifying reason for separation, remove the disqualification by accessing and completing Screen C2, Non-monetary Re-determination. Enter a "2" (Closed) in the ISSUE STAUS field. Enter "29" (Non-monetary re-qualification – 5 x 10) in the RESOLUTION CODE field. Enter the position number of the person who made the re-determination in the ADJ/REFEREE field. Enter the ending date shown on Form NCUI 564 in the END DATE field. Retain the completed NCUI 564.
4. 4. If Form NCUI 500AB is returned timely and contains a potentially disqualifying reason for separation that was not reported by the claimant, *do not remove the prior disqualification*. Access Screen C3 and enter the data required to establish the issue on the claimant's most recent separation. Contact the claimant and schedule a fact finding interview as quickly as possible. Prepare the appropriate fact finding report and route it, along with all other pertinent documents to the Adjudication Unit.

Continue to hold the completed Form NCUI 564 in the "Pending" file. Monitor the claim's progress through the adjudication system. If the adjudicator's determination *allows* benefits, remove the prior disqualification. If the determination *does not allow* benefits, then leave the prior disqualification in place. Retain the completed Form NCUI 564.

If Form NCUI 500AB is not returned within ten (10) working days, the claimant's reason for separation becomes the basis for either removing the prior indefinite disqualification or leaving it in place.

**Note:** *An indefinite disqualification that is two or more years old is automatically removed by the system. Substantial fault disqualifications and time certain disqualifications can be removed only by serving the imposed penalty.*

#### **B. Claimant's Separation Statement Raises Issue**

1. 1. Prepare and process the initial claim. Enter the data required to establish an issue on the claimant's most recent separation. Prepare the appropriate fact finding report and route it to the Adjudication Unit.
2. 2. Prepare the Form NCUI 564, *Certification to Remove Indefinite Disqualification*. **Do not remove the prior disqualification at this time.** Place the completed form in a "Pending" file. Monitor the claim's progress through the adjudication system. If the determination *allows* benefits, then remove the prior disqualification. If the determination *does not allow* benefits, then leave the prior disqualification in place.

**Note:** *Form NCUI 564 is not used to resolve an open issue or to end an indefinite ineligible ruling. An open issue should either be adjudicated or resolved as a dead issue, whichever is appropriate. An indefinite ineligible decision should be ended by the consultant when the claimant satisfies all able and available requirements.*

#### **3.29 File Maintenance and Retention of Claim Records**

The following paragraphs contain information and /or instructions regarding the maintenance of claim record files.

##### **A. Active File**

Claim records for totally separated claimants and for exceptional attached claimants currently filing for benefits are usually maintained in alphabetical order according to the type of unemployment (separated or attached). However, the office manager may elect to use any sufficient method of maintaining claim records that best suits their operation.

##### **B. Dead File**

Transfer claim records to the "dead file" when the benefit year ends. Retain the records in the dead file for one year after the benefit year ends before destroying them.

✖ Hold monetarily eligible claim records in the dead file for two years subsequent to the effective date of the claim.

- Hold Extended Benefit Year (EB) claim records in the dead file for two years after the effective date of the EB claim.
- Retain any Federally Funded Special Compensation claim records for five years after the effective date of the claim.
- To comply with Federal guidelines, retain all UCFE, UCX and TRA claim records, including related documents and correspondence, for three years after the last action affecting the claim. The term "last action" should be construed to include any appeal or court action relevant to the claim.

### **3.30 Non-charging Request for Probationary Employment**

Employers may request non-charging of any benefits paid to an employee who was discharged during a 100-day probationary period due to an inability to perform the work for which he was hired. Such requests are made in the same fashion as any other non charging request.

### **3.31 Claims Take Home Packet**

The Claims Take Home Packet (NCUI 508-B) was devised to provide customers with another option to filing a new initial claim. If the customer visits the local ESC office and feels that the wait time is too long and chooses not to use the internet or telephone filing option they should be presented with this option. If the claimant selects to use the Claims Take Home Packet they should be informed to fill out the forms completely and return the completed forms to the local office.

A quick review of the Claims Take Home Packet will be conducted when the claimant returns the completed form(s). If an issue is detected on the completed forms, the claimant will be asked to fill out the appropriate fact finding form or forms.

Consultants will be responsible for ensuring the following activities are completed:

- Filling out the cover sheet with appointment time the claimant is to return.
- Informing claimant to complete the form(s) in its entirety.
- Honoring all scheduled appointments.
- Placing a Claimant Information and Identification Booklet (NCUI 504) with each packet given to individuals.
- Reviewing the Claims Take Home Packet for completeness and entering the claim into the system.
- Conducting the necessary fact finding and filling out the appropriate fact finding forms.
- Answering any question the individual may have and explain the call-in procedure.
- Collecting the signature page from the claimants stating they understood their Benefit Rights.

## **Chapter 4 Eligibility Review System**

### **4.1 Introduction**

The Unemployment Insurance Program rests upon the basic principle that earnings replacement for individuals unemployed through no fault of their own is a desirable social objective. A corollary of this principle is that benefits are payable only to those who are attached to the labor market. Labor Market attachment is determined by two distinct sets of conditions, those which *establish* eligibility and those which *maintain* eligibility.

Conditions which *establish* eligibility include a prior employment record based upon hours worked and a separation which was due to a time certain or non-disqualifying reason.

Conditions which *maintain* eligibility include ability to work, availability for work, and actively seeking suitable work.

Agency staff, using the "able, available and actively seeking work" requirements described in the Employment Security Law and Commission Regulations, must determine whether a claimant is maintaining a continuing attachment to the labor market. This determination is the heart of the *eligibility review system*.

The eligibility review system has three separate, distinct components: (1) the Periodic Interview Program; (2) the Eligibility Review Interview Program; and (3) the Claimant Profiling and Reemployment Services Program. Although the procedures and activities differ from program to program, all three of these components have the same goal to ensure that all unemployed individuals maintain their continuing eligibility for unemployment benefits while actively seeking work. Each of these components is described in more detail elsewhere in this Chapter.

#### **A. Purpose**

The Eligibility Review Program is designed to accelerate the claimant's return to work and systematically review the claimant's efforts toward the same goal. The bases of the program are claimant classification as to labor force attachment and an interview or series of interviews to explore the continuing relationship between the individual claimant and the labor market.

#### **B. The Employment Service Role in the ERI**

The ERI applies only to a claimant for UI Benefits, but active participation of the Employment Service is essential to provide positive reemployment assistance to UI claimants as a priority group. All the traditional employment services, including placement and counseling, may be provided to claimants who do not have firm employer attachment.

Labor market information is important to some job seekers. While the information is available on the agency web site the Employment Service can provide a valuable service by assisting individuals in understanding such data. Job seekers benefit more directly from referral to suitable job opening by the Job Service. A lesser number of job seekers will need job seeking skills assistance. The Employment Service must provide those who are not knowledgeable in how to seek work, enough guidance and counseling to ensure they can make a meaningful and realistic work search on their own while still utilizing the services of the Job Service.

Recognizing and providing all of these services may cause the Employment Service to detect potentially disqualifying information during the course of the delivery of service through the Eligibility Review Program. The Employment Service should report such information to UI claims staff and UI staff will make the decision of its effect on the claimant's right to benefits as set forth in State Law.

## **4.2 The Periodic Interview Program**

The part of the Eligibility Review Program that fits the needs of most unemployed individuals is the Periodic Interview Program. Most claimants do not have immediately identifiable barriers to re-employment and, in a favorable labor market, can be expected to secure employment fairly quickly through their own efforts or by using the Job Service. However, the longer these individuals remain unemployed, the more likely it becomes that their individual circumstances and/or the labor market will change, making their labor market attachment suspect. Section 96-13(a) (1) of the Employment Security Law requires that every claimant's eligibility for unemployment benefits be reviewed at regular intervals of not more than six weeks. *Commission Regulation 10.12(A)* describes the appropriate procedures for scheduling and conducting such interviews.

Periodic Interview scheduling has been incorporated into the ER scheduling process. The Benefit Payment System defaults to a seven week reporting interval for any claimant who subsequently files a waiting period or first compensable week. Each separated claimant will be scheduled for a Periodic Interview every seven weeks **unless** an alternative reporting schedule is selected by the Consultant at the time the new claim is filed. Claimants who file the weekly certification by internet for the week in which the interview is scheduled will be required to answer additional questions to satisfy the PI requirement and will not have to actually visit the local ESC office. Claimants not attached to a specific local office, i.e. interstate claimants and those attached to the Remote Service Center, will be mailed Form IB-10 that they must return to the Central Office. These claimants who file the weekly certification by internet for the week in which the IB-10 is due back will also be asked additional questions to satisfy the PI requirements and thus will not be required to return the Form IB-10. Detailed information about the automated scheduling process can be found in Section 4.6 of this Chapter.

Since a written Work Search Plan is not required in the Periodic Interview

Program, a Periodic Interview for those reporting in person is not expected to be as lengthy or detailed as an Eligibility Review Interview (ERI). Staff must however explore the claimant's work search efforts recorded on Form NCUI 506E, *Work Search Record*. Staff must also ensure that the claimant understands and is meeting the eligibility requirements of the law.

During an in-person Periodic Interview, it may become apparent that the individual now has some identifiable barrier to employment. In such instances, staff should complete or review the automated Form NCERP 1 and a written Work Search Plan should be developed and the claimant should be placed in the Eligibility Review Program. Instructions for preparing a Work Search Plan can be found in Section 4.4.B of this Chapter.

If a claimant who fails to report for a scheduled PI has not contacted the office prior to the scheduled interview date to make arrangements to reschedule the PI, access Screen E2— Update Eligibility Review Information and enter disposition Code 10 (PI – No report) in the CALL-IN DISPOSITION field. The disposition code will cause the Benefit Payment System to set Issue Code 76, Late reporting – ERI/PI. If no disposition code is entered for a scheduled PI, the system will automatically set issue code 76 when a continued claim with a week-ending date equal to the week-ending date of the week in which the PI was scheduled is processed.

The office adjudicator must issue an ineligible determination to any claimant who fails, without good cause, to report for a scheduled PI. The claimant is ineligible for benefits beginning the week in which he failed to report as directed and continuing until the claimant reports to the office. Warning of this potential ineligibility will be included on the written notification of the PI mailed to the claimant.

#### BPS Data Entry Screen References

C1 – Non-monetary Determination E2 – Update Eligibility Review Information

### **4.3 Automated Form NCERP 1, Eligibility Review Profile**

The Automated Form NCERP 1, *Eligibility Review Profile*, is used to aid with determining a claimant's continuing attachment to the labor force. At the local office manager's discretion an automated *Eligibility Review Profile* form may be completed for each separated claimant when an initial intrastate claim is filed in person. Anytime that it is determined that the claimant is experiencing barriers to employment Form NCERP 1 must be completed and an assessment made as to the need for them to enter the Eligibility Review Interview Program or the Profiling Program. In those local offices where claims are taken in group sessions, the manager may opt to have the claimant complete a paper NCERP 1 and maintain it as part of the claim record file rather than use the automated form. (Due to the mobility of claimants use of the paper NCERP 1 should be kept to a minimum as it causes duplication of work when claimants transfer their claim.)

The automated *Eligibility Review Profile* Form is an on-line application. Some data is input by the claimant while filing the initial claim using an automated filing method. The claims consultant will complete the form for those persons not filing by automated means when the decision has been made to screen the claimant for participation in the Eligibility Review Interview or Profiling Program. The consultant may update data during the initial or subsequent interview stages. The 'Work Search Plan' will be completed by the consultant in consultation with the claimant. A comments section is available to the consultant for the recording of information pertinent to the reason for including or not including the claimant in the Eligibility Review Interview or Profiling Program.

It is not necessary to print the automated Form NCERP 1, *Eligibility Review Profile*. However, the consultant who completes and enters the data associated with Form NCERP 1 must ensure that the claimant understands the significance of the information gathered and documented during the Eligibility Review. The consultant's completion of the screens certifies that the claimant was informed of all benefit rights and responsibilities and was given information about how to maintain Form NCUI 506E, *Work Search Record* which is generated once the on-line NCERP 1 is completed.

#### **A. Initial Screening of Form NCERP 1**

To be of any value the initial screening of the on-line NCERP 1 should take place as soon as possible after completion, but not later than the certification date of the first compensable week following its completion. Early review in the claims series serves several purposes:

- Claimants may be more timely referred to the Employment Service for placement or other service,
- They may be scheduled for a more in-depth eligibility interview so that assistance may be offered to eliminate barriers to employment or,
- They may be referred to the adjudication process for fact finding and an eligibility determination sooner to resolve issues and lessen the likelihood of an overpayment.

In order to detect potential issues and problems, a consultant who is completely familiar with the local labor market must question the claimant and document the claimant's responses. If a potential issue over which the claimant has control (minimum acceptable wage, acceptable work days and hours, etc.) is discovered, the consultant must explain to the claimant why the circumstances and/or demands pose a potential issue and what must be done to remove the potential issue.

If the claimant is unable or unwilling to remove the potential issue, a barrier to employment exists. The barrier must be clearly documented on Screen A.ER using comments entered to explain the claimant's circumstances.

#### **B. Claimants to be Placed in the Eligibility Review (ERI) Program**

After carefully reviewing all pertinent information, staff must determine whether a claimant has one or more identifiable barriers to employment that will require concentrated assistance to overcome. If so, the claimant is placed in the Eligibility

Review Interview Program component of the Eligibility Review System. If no immediate barriers to employment are identified, the claimant is placed in the Periodic Interview Program component.

Employment Service and Unemployment Service coordination is essential when claimants are sent to the Employment Service for supportive services, e.g., job finding assistance, counseling and consideration for training and become a part of the Eligibility Review Interview Program.

The following groups of claimants, identified during the screening of Form NCERP 1, **must** be placed in the Eligibility Review Interview Program and scheduled for an initial Eligibility Review Interview. Other claimants may benefit from the program as noted in section 4.4 of this chapter.

✧ Claimants on short-term layoff with a firm return to work date who continues to file on or after the scheduled return to work date. Such claimants would not be put into the program initially as they do have a firm return to work date.

✧ Claimants expected to return to work upon the occurrence of some event (e.g., seasonal weather change, the activation of a seasonal employment period, completion of some stage of a project, or procurement of equipment or materials) who fail to return to work. Such claimants would not be put into the program initially as there is a projected date for their return to work.

✧ Claimants whose circumstances raise questions about their continuing eligibility, including:

- claimants who are enrolled or who plan to enroll in school other than CAT;
- claimants with temporary physical impairments;
- claimants without reliable transportation;
- claimants who are looking for work in other than their primary occupation;
- claimants with wage or shift restrictions;
- claimants who have not demonstrated a steady employment record.

Such claimants would be put into the program initially so that subsequent reviews will provide the opportunity to work with the claimant to remove barriers to employment especially those typically under the claimant's control such as wage, shift or transportation restrictions.

#### 4.4 Eligibility Review Interview Program

Claimants should be scheduled for interview only if (1) they are in demand occupations and have no firm return to work date; (2) it appears that they need help in finding work; or

(3) their eligibility is suspect. Such individuals must be placed in the Eligibility Review Program as early in the claims series as possible, preferably before the first compensable week is filed. **Do not, for any reason, delay making the decision to place claimant in the ERI Program for more than two compensable weeks.** While the Benefit Payment System automatically defaults the Eligibility Review interval to '07' on Screen B1, staff can change this interval by overtyping the system default data.



Interviews should be scheduled only for a definite cause. The cause is derived from screening of the on-line ER information for first interviews, and from the prior interview in the case of subsequent interviews.

### **A. Conducting the Initial Eligibility Review Interview**

During the initial Eligibility Review Interview, the consultant should develop a more complete picture of the claimant's situation by exploring his circumstances in depth, reviewing his job search efforts, assessing his willingness to pursue necessary alternatives, and developing a Work Search Plan. The consultant must be knowledgeable of the law and policy, the local labor market, and the claimant's work history.

Specifically, the goals of the Eligibility Review Interview are to:

- evaluate the claimant's continuing eligibility and take one of two actions, make updates and comments to the on-line ER or refer the matter for adjudication;
- present accurate, useful information about continuing eligibility requirements, and the local labor market to the claimant; and,
- develop, with the claimant's help, a Work Search Plan and record it on the on-line ER form.

It will take from ten to fifteen minutes to conduct an Eligibility Review Interview and complete all necessary actions. A relaxed and non-threatening atmosphere is essential for the free exchange of information between the consultant and the claimant. The consultant can create this atmosphere by opening the session with a statement of purpose, by being sensitive to the claimant's feelings and encouraging the claimant to open up, by reacting positively to the claimant and by assisting the claimant whenever possible.

Occasionally, the consultant may conclude that a claimant should not have been scheduled for an initial interview at that time; or, that the question on automated Form NCERP 1 was marked in error and does not raise an issue. In such instances, correct any error, review the services available to the claimant and provide appropriate assistance. Prepare a Work Search Plan if necessary. Briefly summarize the results of the interview on Screen Y1, Claimant Comment Data Entry.

If, during the initial Eligibility Review Interview, an issue is identified, refer the issue for adjudication. Care should be taken to only refer for adjudication genuine issues and not use the process to remove all doubt about eligibility. Do not prepare a Work Search Plan; take no further action until the issue is resolved and the claimant is declared eligible for benefits. Note actions taken on Screen Y1, Claimant Comment Data Entry.

**Note:** Do not conduct an Eligibility Review Interview for any claimant whose monetary and/or non-monetary eligibility is pending. In some instances, this may mean delaying a scheduled interview. An Eligibility Review Interview may be conducted by telephone or if the claimant prefers, in person at a local ESC office.

### **B. Preparation of the Work Search Plan**

The end result of the initial Eligibility Review Interview is a fully documented Work Search Plan. This plan formalizes the claimant's intended course of action by documenting the actions agreed to in the interview. The Work Search Plan translates the claimant's intentions into specific actions which result in a more effective work search.

The Work Search Plan portion of the automated Form NCERP 1 includes canned text which is tailored to the individual claimant by completing the following data fields:

- the reason(s) the interview was conducted;
- reference to the specific occupation(s) which the claimant will seek (This should be consistent with claimant's skills and ability. The occupation must also be available within claimant's commuting distance during the hours claimant is available and pay at least the lowest acceptable wage he states he will accept.);
- a reference to the geographic area(s) in which the claimant will seek work;
- any supportive services offered to the claimant;
- a statement of instructions or advice given to the claimant in order to assure his continuing eligibility; and,
- a statement of the specific actions the claimant will take to compensate for any circumstances which raise a question of continued eligibility.

Each claimant's circumstances and relationship to the local labor market are unique. Each Work Search Plan must meet both the eligibility requirements and the individual needs of the claimant. The consultant must explain the plan to the claimant to ensure understanding of the work search requirements and the consequences of failing to comply with all requirements. The Work Search Plan must also be summarized on each Form 506E, Work Search Record mailed or presented to the claimant.

### **C. Subsequent Eligibility Review Interviews**

If the Work Search Plan or unresolved barriers to employment requires the claimant to complete certain actions, a subsequent interview is required. Schedule any subsequent interviews in the same manner as the initial interview.

The subsequent interview is essentially like the first interview. Eligibility and availability are reviewed, and the claimant's actual work search efforts are compared with those established in the Work Search Plan. Modify the Work Search Plan if a change in the labor market or the claimant's circumstances warrant. Document any Work Search Plan changes on the on-line Subsequent Interview screen. As in the initial interview, refer any unresolved eligibility issues for adjudication. Entry of the Subsequent Interview transaction is the consultant's certification that all requirements applicable to the Subsequent Eligibility Review Interview have been met.

**Note:** Use Issue Code 44, ERI-failure to meet work search requirements, to set and resolve an eligibility issue raised by a claimant whose failure to meet the work search requirements is discovered during a scheduled ERI. The claimant's work search efforts for the entire period covered by the ERI are to be taken into account. While a claimant is required to make some work search effort each week it is not the intent of Commission Regulations that one plan fits all

*claimants in all situations. Rather a particular claimant may have sought work at 2 places on one day in one week and two places on two days in each of the other weeks. The fact that claimant only sought work on one day in the one week does not automatically make claimant ineligible for that week even though it is out of compliance with the agreed upon work search plan. The totality of claimant's efforts is what is significant.*

BPS Data Entry Screen References

C1	—	Non-monetary	Determination
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ESCE Client Inquiry/Update Screen References

ER	—	ERP	Form
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#### **4.5 Claimant Profiling Program**

Claimant Profiling provides early recognition of and early intervention with those claimants identified as dislocated workers. Dislocated workers are defined as claimants who are: (1) totally separated from employment, (2) eligible for unemployment benefits, (3) unlikely to return to their previous occupation or industry, and (4) likely to exhaust their unemployment benefits before returning to work.

Each totally separated claimant who receives a first payment is profiled using a computer statistical model which captures and evaluates data elements such as the claimant's last employment; the length of that employment; the claimant's occupational classification(s), educational level, and county of residence. The model also incorporates local unemployment rates as well as employment trends for the claimant's occupation and industry.

Each Wednesday night, the computer uses this statistical model to *profile* every totally separated intrastate claimant who received a first benefit payment that week i.e., the model computes the probability that the claimant will exhaust his maximum benefit amount before returning to work. Any claimant whose probability of exhausting benefits is equal to or greater than a predetermined percentage is selected for possible referral for concentrated reemployment services.

Each Thursday, claimants identified by the profiling operation are displayed on Screen E6—Profile Interviews for the period MM/DD/YYYY - MM/DD/YYYY. Staff should access this screen and delete any claimants who have become reemployed. A deletion from this list automatically generates an E2 transaction that closes the profiling segment and builds a new ER segment for the claimant.

After the Thursday night update, the Benefit Payment System uses each office's profile

scheduling information (from Screen E5—Profile Interview Schedule) to establish a schedule for profiling orientation appointments. If the number of claimants expected to exhaust benefits exceeds the number of claimants an office can serve, the system automatically fills the available slots with claimants who have the highest probability of exhausting benefits.

On Friday, Screen 57—Profile Interviews Scheduled for MM/DD/YYYY -MM/DD/YYYY displays a listing, by office, of the profiling orientation appointments scheduled for the current and following week as well as the prior week. Screen 26—Eligibility Review Information displays information about a specific claimant's profiling appointment. The letters "OOP" in the ER INTERVAL field identify Profiling interviews.

**Note:** *Profiled claimants are placed on the seven week ER schedule regardless of whether any offered employability services have been completed. Consequently, some claimants may be required to report more frequently than once every seven weeks.*

Claimants scheduled for a profiling orientation appointment are notified of the date and time of the appointment by mail or telephone or internet in accordance with the claimants filing method. Staff must manually reschedule those claimants who fail, with good cause, to keep their orientation appointment.

Claimants who fail, without good cause, to report for the interview or to participate in any offered reemployment services must be referred for adjudication. For claimants who refuse to participate, access Screen C3 and set issue Code 68 (Failure to participate in reemployment services). Issue Code 19 (Failure to report for profiling call-in) will be set by the system when disposition code 02 (No report) is entered in the CALL-IN DISPOSITION field on Screen E2, or when a week claimed with a week-ending date equal to or greater than the week-ending date of the week in which the profiling interview was scheduled is processed.

The Benefit Payment System automatically removes from the profiling program those claimants who are not selected during the week after their first payment. The system generates an E2 transaction (disposition code 02 – Not needed) to close the open profiling segment and then enters these claimants into the Periodic Interview Program.

Profiled claimants who refuse to participate in offered reemployment services must be disqualified from receiving benefits. Claimants who fail, without good cause, to report for a scheduled profiling interview will be ineligible for benefits for the week in which they failed to report.

Additional information about claimant profiling service may be found in the *Procedures Manual for North Carolina Profiling and Reemployment Services System*.

#### BPS Inquiry Screen References

26 – Eligibility Review Information 57 – Profile Interviews Scheduled for  
MM/DD/YYYY - MM/DD/YYYY

#### BPS Data Entry Screen References

C1 – Monetary Determination C3 – Establish Issue or Pension Amounts E2 – Update Eligibility Review Information E5 – Profile Interview Schedule E6 – Profile Interviews for Period MM/DD/YYYY - MM/DD/YYYY

#### **4.6 Automated Scheduling of Eligibility Interviews**

The Benefit Payment System provides for automated scheduling of most Eligibility Review Interviews (ERI's) and/or Periodic Interviews (PI's). The system automatically defaults to a seven week claim reporting interval for any separated claimant who files a new initial or additional claim. Office staff may change this interval, if appropriate.

At the time an eligibility interview is conducted the consultant must determine whether the interview is an Eligibility Review Interview (ERI) or a Periodic Interview (PI).

The automated scheduling process can also be initiated by accessing Screen E1--REQUEST ELIGIBILITY REVIEW CALL-IN NOTICE and entering the desired interview interval in the INTERVAL field.

Each Thursday night, after the master file has been updated and the Profiling schedule has been run, the Benefit Payment System generates a list, by office, of all separated claimants who filed a weekly certification during the previous 14 days and whose ER interval is within 2 weeks of becoming due. On Friday, staff can access Screen E4 – Claimants Eligible for Eligibility Review Interviews for MM/DD/YYYY through MM/DD/YYYY to view this list and delete any claimant who has returned to work. After the Friday night Benefit Payment System update, the office's ER schedules (from Screen E3 – Eligibility Review Interview Schedule) are loaded; the scheduled dates are checked for holidays and adjusted, if necessary; and the ER scheduling run is made. If the number of claimants to be scheduled exceeds the number of available slots, the system will schedule all selected claimants by forcing them into the designated time slots.

**NOTE:** If a holiday falls on the only day(s) designated for ER scheduling, the office manager must modify the schedule so that claimants can be interviewed on another day(s) in that week. Otherwise, the legal requirement to interview intrastate claims at least once every seven weeks cannot be met.

On Monday, staff can access Screen 27 – Eligibility Review Interviews Scheduled for MM/DD/YYYY through MM/DD/YYYY to see the interviews scheduled for the current and following week as well as those for the prior week. If no date is entered, all three lists are displayed with the most recent schedule first.

##### **A. ER Notice for Claimants**

All claimants attached to a North Carolina local office are sent a computer generated notice informing them of the date, time, place and purpose of the ER

interview. This notice is mailed approximately ten days in advance of the scheduled reporting date to allow the claimant adequate time to make arrangements to keep the appointment. Screen 26 is automatically updated to show the CALL-IN DATE, CALL-IN TIME and CALL-IN MAIL DATE.

Claimants who file by VRU will also hear a recorded message which tells them the date, time, place and purpose of a scheduled ER appointment when they call the JOBS Line to file a weekly certification or check on a prior payment. They will also be told to bring their work search record to the interview. Claimants cannot interrupt or bypass this message and cannot file a weekly certification or get payment information without acknowledging receipt of the ERI message by pressing '1' on the telephone keypad. Many claimants will file two weekly certifications prior to their scheduled interview date and will hear the ER message twice. All claimants who file timely will hear it at least once.

Interstate claimants and those attached to the Remote Services Center are mailed Form IB-10 and given the date the form must be returned. When these claimants file via VRU they will be notified that the form was mailed and the date it must be returned.

#### **4.7 Claimant Relocates During Claim Series**

Whenever it is necessary to change the office number on a claim record because the claimant relocated, always access Screen 26 — Eligibility Review Information to determine if the claimant has been scheduled for an ERI/PI. The following material examines possible relocation situations and describes the action to be taken in each instance.

**Situation 1:** Claimant moves from one local office service area to another.

The ERI/PI has been scheduled but not held, and the claimant reports to the new office either prior to or on the scheduled ERI/PI

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**Action:**  
Day 1

Conduct the ERI/PI, if appropriate. Access Screen E2 and resolve the scheduled ERI/PI. If the ERI/PI was conducted, enter disposition code 01 or 09 as appropriate. If it is determined that the ERI was not needed, enter disposition code 03. Notify the claimant's prior office of this action so

that the staff will not set an issue on the claimant's record for failing to report for a scheduled ERI/PI.

## Day 2

Access Screen B1 and if appropriate reopen the claim. Enter the new office number, and all other required information. The system will automatically set the ERI/PI default to 07 unless altered when the B1 transaction is completed.

**Situation 2** Same as situation 1 except claimant reports to the new office *after* the scheduled ERI/PI date.

**Action:** Access Screen 26 and determine whether the prior office has resolved the ERI/PI and set issue Code 76, Late Reporting  
—  
ERI/PI. If the issue has not been set, take the actions noted in Situation 1 above. If the issue has been set, complete the appropriate fact finding form and forward it to the office adjudicator. Access other screens as appropriate to reopen the claim, change the office number and claimant's address.

**Situation 3:** An interstate claimant (NC is the liable state) returns to an in-state address.

**Action:** Follow actions specified in Situation 1 or Situation 2 above depending on whether the claimant reports to the local office prior to or after the scheduled ERI/PI. It is not necessary to notify the interstate unit in the Benefits Department of this action.

**Situation 4:** Intrastate claimant relocates to another state before a scheduled ERI/PI is conducted.

**Action:** If claimant has made contact with the interstate call center prior to filing the weekly certification for the week in which the ERI/PI falls, the consultant will access screen E2 and enter Code 03. If the weekly certification for the week in which the ERI/PI falls has been filed then an issue has been set by the system for failure to report, Code 76. The consultant will access screen E2 and enter code 02 or 10 as appropriate. The consultant will then determine if an issue exists concerning claimant's failure to report and if so prepare the appropriate fact finding form and route it to the adjudication unit for a determination.

#### **4.8 Claimant Returns to Work**

If a claimant returns to work before his scheduled ER appointment, access Screen E2 – Update Eligibility Review Information and enter Code 03 in the CALL-IN DISPOSITION data field. Then access Screen Y1 and enter the new employer's company name and date the claimant returned to work. Disposition code 03 will prevent further ER scheduling.

#### **4.9 Reopened Claims**

After any break in the claim series (AIC or NIE), access Screen A.ER and enter "Y" (yes) in response to the question "Do you wish to create a new ERP for an AIC/NIE?" Entry of "Y" allows the most recent employment, occupation, and educational information to be retrieved from the A.OI screen. Review each of the eligibility questions and document the claimant's responses. Access screen C3 to post any existing availability issues. Screen all documents again and complete other activities necessary to reopen a claim as found in Chapter 3 of this manual.

#### **4.10 Count of Eligibility Review Interviews (ERI's)**

The Benefit Payment System automatically counts the ERI workload from ER disposition codes entered on the E2 screen. If the ERI is closed with a disposition of other than 01 and the claimant reports later, use Screen E2 to change the disposition. However, if the original disposition entered was 02, and the system automatically set issue Code 76, Late reporting – ERI/PI, then this issue must be resolved at the time the disposition is changed.

The system automatically counts ERI workload if the disposition is changed within the month.

Report manually scheduled and conducted intrastate ERI through the Weekly Time and Count (WTC) Screen under the column titled "Unscheduled ERI Intrastate". The count of the computer scheduled intrastate ERI held and the count of the manually scheduled intrastate ERI held are added to determine the total intrastate workload for each office. This combined total is the intrastate ERI count shown on the Office Staffing Report.

**NOTE:** To ensure proper workload credit, all UI workload activity, including ERI held, should be reported during the week in which the activity is performed.

#### **4.11 On-Line Eligibility Review Interviews (ERI's)**

Once the Guide system has scheduled an ERI for a claimant, if that claimant files his or her weekly certification online at [www.ncesc.com](http://www.ncesc.com), the ERI will



automatically be completed by the claimant answering three supplemental questions in addition to the normal weekly certification questions. The three supplemental questions are:

1. Are you able and available to accept work immediately? ("No" response will set 07 issue code.)
2. Are you attending school or training? ("Yes" response will require question 2a to be answered.)
2a. If yes, Are you willing to forego training or change your hours in order to accept a job? ("No" response will set 72 issue code.)
3. Are you self-employed or working on a commission basis? ("Yes" response will set 80 issue code.)

For claimants who do not file their weekly certification online at [ncesc.com](http://ncesc.com), there is no change in the ERP procedure. Those claimants must report to their assigned local office as scheduled. The Interstate and Remote Services Center claimants must complete and return the Eligibility Review Notice, Form NCIB-10A / NCUI-10A.

The Benefit Payment System screens will show the following information regarding On-Line ERI's:

Screens  
16

26

27

#### Information Shown

Displays Supplemental ERI questions and answers below normal weekly questions. New data column "Type ERI". After the ERI disposition is processed, the system will automatically display "Intv" (Inperson ERI); "Mail" (Form NCIB-10A/NCUI-10A); "Inet" (Internet ERI); or "Pro" (Profiling). New data column "ICC Filer". "Yes" in this column signifies that the last weekly certification prior to ERP selection/scheduling was filed via [ncesc.com](http://ncesc.com).

## **Chapter 5 Weekly Certifications**

### **5.1 Definition of Weekly Certification**

A weekly certification is an application covering a 7-day period of total, partial, or part-total unemployment for which a claimant or his employer certifies to his eligibility for unemployment benefits.

### **5.2 Types of Weekly Certifications**

There are two types of weekly certifications.

#### **A. Claim for Separated Unemployment**

A weekly certification for separated unemployment is taken for a claimant who is out of work for an indefinite period of time and who has no attachment to a payroll or work force of an employing unit.

#### **B. Claim for Attached Unemployment**

A weekly certification for attached unemployment is taken for a claimant who is either totally or partially unemployed because of lack of work during a payroll week, but who retains his attachment to the payroll and work force of an employing unit.

After filing *eight* consecutive weeks of total unemployment, an attached claimant loses his attached status and is placed in the "separated" category. The Benefit Payment System identifies these claimants and automatically flags the claim as a "eighth week registration". This eighth week is paid and a computer generated letter is sent to the claimant advising him of his change in status from attached to totally separated unemployment. This letter advises the claimant to begin an immediate search for full-time permanent work and to contact the nearest Job Service office within five (5) days to register for work and receive additional instructions regarding the filing of future claims. The letter also advises the claimant if he fails to follow these instructions, payment of any future benefits will be delayed.

An inquiry screen, L/O Attached Claim Notice, can be accessed under the Miscellaneous Benefit System Functions menu by entering LACN (space) (LO #) in the CMD==> field. This screen displays a list, by office, of all claimants who were sent a registration notice during the prior night's Benefit Payment System update; information displayed includes the date of the notice, the claimant's name and Social Security number, and the week-ending date of the week involved. Since this list is not maintained for future reference but is replaced by the next daily update, local office staff should print a copy of the list each day. The date the notice was prepared is also posted on Screen 12 for each individual involved.

If a ninth consecutive week without work or earnings is received, the Benefit

Payment System automatically sets Issue Code 73, Attached Claimant--8th Week Registration, and sends the claimant a letter instructing him to report to the local office to resolve an issue on his claim. This issue will be added to the Active Issue Follow-Up File. If the claimant fails to report to the local office within 20 days, the claim will appear on the *Active Issue Follow-Up Report*. Access Screen C1 and resolve the issue; prepare and mail a determination holding the claimant ineligible until he reports as directed.

Occasionally, an employer will submit Form NCUI 501 which contains both the eighth and the ninth consecutive weeks without work or earnings. In such instances, the system will not pay the ninth week. It will set Issue Code 73 and send the claimant the letter which notifies him of the change in his unemployment status and the actions he must take. If the claimant fails to report to the local office within 20 days, this issue will appear on the *Active Issue Follow-Up Report* for appropriate resolution.

The eight week period may be extended up to a maximum of eight additional weeks by the office manager or their designee if (1) the employer provides a definite return to work date, (2) the extension seems reasonable to the manager, and (3) the employer is designated "non-seasonal". Access Screen A3 or Screen C1 and enter any extension in the appropriate data field. The Benefit Payment System will display the extension on Screen 12.

#### BPS Data Entry Screen References

A3 - Change Basic Data C1 - Non-monetary Determination

#### BPS Inquiry Screen References

12 - Claimant Characteristics (M. LACN) - L/O Attached Claim Notice

### **5.3 Filing via the Internet**

Claimants may chose to file their separated claim online, by accessing [www.ncesc.com](http://www.ncesc.com). The claimant can access several different services on the agency's web site once logged on using the social security number and PIN.

#### **A. File Weekly Certification**

The filing of a weekly certification is referred to as 'file weekly certification' on the web site. Once this option is chosen the claimant will have to logon using his social security number and PIN. The claimant can establish the initial setting of a PIN during the initial visit login process. Entries on the 07, 16, 62 and 64 screen use the "INET" designation to show that the claim was filed online.

## B. PIN Reset

The PIN can be reset via the web site provided he knows the current PIN. If the claimant does not know the current PIN, they must contact the local office or RSC to have the PIN reset.

## C. Other Claims Information on the Web Site

1. 1. The claimant can view his profile information. This is information that is located on the 01 screen in the Benefits System.
2. 2. The claimant can view his benefit payment history. This is similar information to that found on the 07 screen in the benefits system.
3. 3. The potential claimant can receive an estimate of benefits by using the 'Estimate Benefits' function on the web site.
4. 4. The claimant can access and print off the most recent Form 1099 needed to file his state and federal income tax return.
5. 5. The claimant can access benefit eligibility information and view frequently asked questions.

## D. Other Services Available to the Claimant

1. 1. The customer can complete and update a work registration with the agency.
2. 2. The customer can access NC Job Openings.
3. 3. The customer can access FAQs and other information about unemployment insurance, employers and labor market information that might assist in gaining employment.
4. 4. The customer can access the address and phone numbers of all ESC locations in the state.

## 5.4 Filing by Telephone

A high percentage of all separated continued claims are filed through the touch-tone telephone voice response system called the **Job Openings and Benefit Services (JOBS) Line**. Form NCUI 504, *Claimant Information and Identification Booklet*, contains detailed instructions for filing continued claims by touch-tone telephone.

Access to the **JOBS Line** for filing continued claims and obtaining payment information is controlled by a four-digit Personal Identification Number (PIN) which serves as the claimant's electronic signature. The claimant establishes his own PIN during his initial call to the **JOBS Line**. The PIN is not displayed on any Benefit Payment System screen and is not available to agency staff; therefore, it is not possible for staff to tell a claimant who has forgotten his PIN what that number is. A claimant's PIN is valid until it is reset or until there is no activity against that Social Security number for twelve months; establishing a new claim does not reset the PIN.

The following Benefit Payment System screens provide information related to telephone filing.

### **A. Screen P9 -- Telephone Claim PIN Number Reset**

For security purposes and for the claimant's protection, **JOBS Line** access is suspended automatically after a maximum of *five* consecutive failed attempts to enter the correct PIN. These attempts do not have to occur during the same telephone call or on the same day. *Once his access is suspended, the claimant must contact the agency to request authorization to use the system again.* After verifying the claimant's identity, designated staff can use Screen P9 to reset the PIN. Pin Reset requires the claimant to establish a new PIN during his next system access.

**NOTE:** When the claimant reports in person to have the PIN reset, the consultant should require a picture ID to ensure that the person requesting the reset is indeed the claimant.

**If the PIN reset is requested by telephone** then the consultant must request information from the customer to confirm their identity. The staff member must get a match on at least three of the following data elements that will be found in the customer's record:

1.     **1.**     Date of birth
2.     **2.**     Mailing Address
3.     **3.**     Name of last employer
4.     **4.**     Last date worked

5. Name of another base period employer if a claimant. If the customer is unable to satisfy the request for identifying information, instruct the customer that they must report in person with a picture ID to have the PIN reset. For audit purposes the staff member should make comments using the Y1 screen noting that the PIN was reset per claimant's (in person or telephone) request.

Mail and attached claimants are automatically given access to the **JOBS Line** benefit payment inquiry function; they simply need to call the system and establish a PIN number.

**NOTE:** Separated claimants who file weekly certifications by touch-tone telephone are automatically authorized to use the system to obtain benefit information.

### **B. Screen 16 -- Telephone Weekly Certifications**

This screen, formatted to look like a pay order, displays the claimant's responses to the eligibility questions for a particular week. The date and time the call was received and any earnings or other payments reported by the claimant are also displayed. This screen is on-line and the information is available to staff as soon as the call is completed.

### **C. Screen 62 -- Claimant Call History**

This screen helps identify and resolve claimant questions and problems related to **JOBS Line** access by displaying information about each telephone call made by

applicants, claimants, and other users of the **JOBS Line** voice response system. Information displayed includes the date and time each telephone call was received, the number of weeks filed, benefit payment information presented, job openings presented, duration of each call in minutes and seconds, notification of ERI appointment, and messages indicating why access was denied or information was not presented.

Call data is kept on-line for 12 months from the date the call was made or the date of the last activity against that Social Security number. Since Screen 62 is not attached to a specific benefit year, each claim sequence displays the same historical data.

#### BPS Inquiry Screen References

16 - Telephone Continued Claim 62 - Claimant Call History

#### BPS Data Entry Screen References

P9 - Telephone Claim PIN Number Reset

### **5.5 Filing by Mail**

Separated claimants who are unable to file by telephone or internet, e.g., have a hearing impairment or a language barrier, or who object to filing by telephone or internet, may file their weekly certification by mail. To change a claimant's filing method from telephone to mail at the time a new or reopened claim is taken, simply overtype the "T" in the FILING METHOD data field on Screen B1 with an "M". Give each claimant who elects to file by mail a copy of new Form NCUI 506I, *Instructions for Filing Mail-in Claims*.

Telephone claimants who wish, at some later time, to change to mail claims must complete the written request found on the last page of Form NCUI 503, *JOBS Line Questions and Answers*. Form NCUI 503 must be made available to all individuals who file new or reopened claims. When a Mail claim request is received on Form NCUI 503, access Screen A3 and change the claimant's filing method to an "M". Then send the claimant a copy of Form 506I, *Instructions for Filing Mail Claims*. Form NCUI 506I can be used as a mailer. Before mailing place a piece of tape across the bottom of the folded form; **do not staple the bottom of the form to keep it together**.

Employers may also file attached claims (Forms NCUI 501) by mail.

#### **A. Form NCUI 506D, Pay Order for Totally Separated Claimant**

The Benefit Payment System generates and sends Form NCUI 506D, *Pay Order*, to each totally separated claimant who establishes a benefit year and elects to file by mail. When the form is returned and processed, the system will issue a new Form NCUI 506D

covering the following week in the claim series. A new form for the succeeding week is generated and mailed to the claimant each time one is returned for processing.

The claimant's unemployment check is mailed in a separate envelope; it is not attached to the next mail-in claim form. Claimant messages are displayed in an area above the body of the check. Claimants should remove the message portion from the check by folding and tearing along the perforation before attempting to cash the check. Informational messages are mailed to claimants who, for some reason, do not receive a check.

The completed 506D is either mailed or delivered in person to the local ESC office or call center. Designated staff will process the 506D for payment by performing the following actions.

- Complete the "For Local Office Use Only" box in the upper right corner of the form. ("Date Received" is the date the form is received in or hand delivered to the agency.)
- Examine the 506D to ensure that all questions are answered. Staff must immediately return any incomplete forms filed by mail to the claimant with a form letter explaining what additional information is needed or instructing the claimant to contact the office.
- Review the answers to all questions to determine if an issue exists. If an issue is discovered on a hand delivered form, complete the appropriate fact finding form before the claimant leaves the office. If an issue is discovered on a mailed in form, setting the issue in the BP system will cause a message that instructs the claimant to contact the office so that the fact finding form can be completed. Route the fact finding form and a copy of the 506D to the appropriate adjudicator for resolution of the issue.
- Access Screen Z9 – Pay order Certification and enter the necessary data on the same day the form is received.
- Retain the Form 506D in the office for audit purposes.

## **B. Form NCUI 501, Benefit Claim for Attached Worker**

If the employer's payroll week ending date is other than a calendar week-ending date (Saturday), the Benefit Payment System adjusts the week-ending date to the next Saturday.

**NOTE:** If the payroll week-ending date ends on Sunday, the Benefit Payment System changes the week-ending date to the previous Saturday.

If Form NCUI 501 is a new claim or an additional initial claim (AIC), the system makes the claim effective date six days before the first (adjusted) week ending date on the form.

The employer prepares Form NCUI 501 to allow claimants who are not US citizens and still attached to his payroll to file for a week of unemployment. Instructions for preparing Form NCUI 501 are located on the back of the form. In most instances, the completed form is provided to the employee who is not a US citizen. The employee must take the completed form to a local ESC office with his INS work authorization form. The consultant who accepts the claim will conduct a SAVE verification prior to processing the claim.

## **5.6 Electronic Media Filing by Employer**

Employers may submit new and/or weekly certifications for claimants that are attached to their payroll and in some cases workers separated from their payroll on magnetic tape, diskettes or via the internet.

- A. Procedures for submitting attached claims in this manner differ from procedures for submitting attached claims on Form NCUI 501. Chapter 7 of this manual contains detailed information on these alternative methods of filing attached claims.
- B. Procedures for submitting totally separated claims in a mass layoff situation differs from procedures for individual claimants filing their claim. Chapter 7 of this manual contains information on filing of mass layoff claims.

## **5.7 In-Person Filing**

In-person filing of weekly certification is normally limited to attached claimants who, because of special conditions, must bring Form NCUI 501 to the local office for processing. Chapter 3 of this manual contains detailed instructions for processing these claims.

Since the time frame for conducting fact-finding interviews and receiving Form NCUI 500AB may create first payment and adjudication time lapse problems, authorized staff may, if necessary, access Screen Z9 and enter the waiting period week into the Benefit Payment System at the same time the fact-finding interview is conducted.

Authorized staff may also use Screen Z9 to process a contested week on an able and available issue at the same time the fact-finding interview is held.

**NOTE:** Staff may only enter weeks that must be processed in order to render nonmonetary determinations. Pay Order cards for these weeks must be maintained in local files for audit purposes. An office claims supervisor must approve any Z9 transactions that will cause retroactive payments to be made. Information about such cases must be documented on Screen Y1.

## **5.8 Waiting Period Week**

The first eligible weekly certification (one which would otherwise be compensable) for total, partial, or part-total unemployment in a benefit year cannot be paid; it must be used for the one-week waiting period required by the Employment Security Law.

The waiting period week can be waived in two circumstances as outlined in NCGS 96-13 (c).

- A. Claimants whose unemployment is due to a declared natural disaster and who are eligible for regular unemployment insurance benefits may request a waiver of the waiting period week. Any benefits paid as a result of this type waiver are not charged to the employers' account. The claimant must complete the request and submit it to the Commission for consideration. If allowed, designated staff will



access screen A3 and so note the waiver allowance. If disallowed, the claimant will be issued an appealable non-monetary determination.

- B. A waiver can be allowed to claimants whose unemployment is due directly to a major disaster that destroys substantially all of the physical facilities of a manufacturing plant if the Governor issues an Executive Order authorizing the agency to waive the waiting period for employees of the manufacturer.

**NOTE:** If a claimant is receiving benefits as a result of a decision by an Adjudicator, Appeals Referee, or the Commission, and such decision is subsequently reversed, any benefits already received by the claimant cannot be considered an overpayment. However, the Law provides that a week cannot serve for waiting period credit unless the claimant is otherwise eligible for benefits. Therefore, if the waiting period week is included in the ineligible or disqualification period, the first eligible week claimed at the end of the ineligible or disqualification period must be used to meet the waiting period requirement, if the claimant wishes to resume filing.

### 5.9 Ineligible Weekly Certification

An ineligible weekly certification is a claim for benefits that cannot be paid because of:

- ⌚ excessive earnings;
- ⌚ weekly retirement pension benefit equaling or exceeding the weekly benefit amount;
- ⌚ wages in lieu of notice, vacation pay, separation pay, terminal leave, etc.;
- ⌚ failure to establish a benefit year; or,
- ⌚ a determination or decision declaring the claimant ineligible or disqualifying him.

### 5.10 Definition of Earnings Allowance

*Earnings allowance* is the maximum amount a claimant may earn in a compensable week before any deduction is made from his weekly benefit amount. It is computed by dividing the claimant's high quarter wages by 13, multiplying this result by ten percent (0.10), and rounding any amount which is not a whole dollar down to the next lower whole dollar.

**Note:** *The claimant's earnings allowance is displayed on Screens 01, 06, and 07.*

### 5.11 Computation of Partial and Part-Total Benefits

When claimant reports earnings during a week of partial or part-total unemployment, the Benefit Payment System compares the earnings with the earnings allowance and

calculates the benefits payable for that week as follows:

1. 1. If earnings are equal to or less than the earnings allowance, the full weekly benefit amount is paid.
2. 2. If earnings are greater than the earnings allowance, the earnings allowance is first subtracted from the earnings. The remainder of the earnings is then subtracted from the weekly benefit amount on a dollar-for-dollar basis. Any result that is not a whole dollar is rounded down to the next whole dollar.

### BPS Inquiry Screen Reference

#### 13 - Benefit Payment History II

##### **5.12 Eligibility Requirements**

Although the claimant is responsible for complying with the eligibility requirements for each week that he claims benefits, staff are responsible for determining if the claimant actually met those requirements. Staff must explore each separated claimant's compliance with the eligibility requirements during interviews held at regular intervals.

The following paragraphs explain the eligibility requirements in sufficient detail to enable the consultant to determine whether the claimant met the eligibility requirements.

##### **5.13 Registration for Work**

Each separated claimant must be currently registered for work with the Employment Service in the state in which they reside.

##### **5.14 Ability to Work and Availability for Work**

Section 96-13(a) (3) of the Employment Security Law requires that a claimant be able to work and available for suitable work during each week for which he claims benefits. Able to work means that a claimant is able, with or without reasonable accommodation, to perform the essential functions (primary duties) of the jobs for which he is qualified. Availability for work means a readiness and willingness on the part of the claimant to accept suitable work at any time. Several court cases have held that an individual who is "available for work" must be genuinely attached to the labor market. Commission Regulations require a claimant to do those things that an unemployed person who wants to work would normally do, including making a systematic and sustained search for work.

Claimant availability restrictions usually fall in one of the following categories: domestic responsibilities, illness in the family, care for minor children, transportation to and from work, acceptable wages, hours of work, attendance at school and self-employment.

Claimants who indicate that they may engage in self-employment ventures must be closely evaluated to ensure that they meet the availability requirements. *Commission Interpretation 139* considered the availability of individuals who have traditionally worked in public employment and then set themselves up in business to serve the public by the performance of personal services or the selling of some commodity. Net income or profit is not a consideration in determining whether a self-employed individual is available for work. The key element in this determination is stated in *Commission Interpretation 139* as follows: "... If the individual is not customarily self-employed, it seems that the matter comes down to a practical application as to whether such individual is available for work or whether the individual has established himself in the particular activity to such an extent that he would not be available for work and intended to set himself up as a self-employed individual."

Advise claimants to immediately report any attempt to start a business or otherwise become self-employed, *regardless of whether any wages were earned or net profits were received*. Such actions by claimants raise an immediate issue concerning their availability for work. Record such information on the claim comments screen using a Y1 transaction when an issue is not raised so that the matter can be documented in the event it becomes an issue at some point later in the claim.

If an individual is unable to work or unavailable for work during a benefit week, refer the claim to the office Adjudicator. The Adjudicator will set and resolve the issue on Screen C1 and will render a determination on the issue.

If a claimant refuses a referral to suitable work or refuses an offer of suitable work during a benefit week, complete the appropriate fact finding report and route it to the Adjudication Unit in the central office. ***Do not set an issue; central office adjudication staff will set and resolve the issue when they render a determination.***

#### BPS Data Entry Screen Reference

C1	–	Non-monetary	Determination
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### 5.15 Search for Work by Separated Claimant

The Employment Security Law requires that a separated claimant actively seek work during any week for which unemployment benefits are claimed. Actively seeking work is defined as doing those things that an unemployed person who wants to work would normally do. ***Consultants are responsible for recognizing and evaluating pertinent factors when setting work search requirements for claimants. Work search requirements must be designed and tailored for each individual claimant.***

*Commission Regulation 10.25(A)* states that a ***prima facie*** showing of actively seeking work is established when a claimant has "sought work on at least two (2) different days and made a total of at least two (2) in-person job contacts". In addition, *Commission Precedent Decision No. 23 - In re Lambert* issued on November 15,

1991, illustrates that, ***in some instances***, a claimant can demonstrate an active search for work even though two different, in-person work search contacts on two different days have not been made each week. A claimant who has successfully obtained ***permanent work to begin at some future date*** has shown the desire to work and, under such circumstances, is not expected to continue the same type of work search as one who has no promise of employment. Along the same lines, a claimant normally employed in certain areas of skill may show an active search for work by *submitting resumes* rather than making in-person job contacts.

The everyday application of these concepts means, *in the absence of more specific work search requirements*, that a claimant who has sought work in person on two different days with at least two different employers need not be questioned further with respect to work search. It also means that, *when all pertinent factors are considered*, a claimant may have actively sought work even though fewer than two in-person job contacts were made and/or these contacts were made on fewer than two days. ***Consultants are responsible for determining, in light of all available information, whether the claimant's work search is adequate. Any deviation from the requirement of "two different contacts on two different days" must be documented in writing, preferably in the ER plan.***

All claimants should be advised of the necessity to maintain a record of their job search efforts while claiming unemployment benefits. The agency has designed Form NCUI 506E, Work Search Record, as an aid to claimants in maintaining this documentation. The use of this form by the claimant is not required. The claimant need only have job search information available when requested by the Commission. Failure to be able to supply a work search record may cause the claimant to be held ineligible for benefits and create an overpayment of benefits.

When the claimant is entered into the Eligibility Review Interview Program, enter the claimant's work search requirements on a copy of Form NCUI 506E, *Work Search Record*; date and initial this block. After explaining the work search requirements, ask the claimant to sign and date the work search requirements block to indicate that the requirements were explained and understood. Give the form to the claimant; instruct him to record all work search contacts on the form, and to make it available when reporting for regularly scheduled reviews of his work search efforts. The claimant must sign and date the certification on the back of the completed form when it is presented for examination during an eligibility review interview. Staff who examine Form NCUI 506E during an eligibility review interview must enter the date of the interview, the type of interview and their initials in the appropriate spaces on the form.

These same concepts regarding work search requirements apply in periods of high unemployment when individuals are filing extended benefit claims. In the absence of more specific work search requirements, the claimant who has sought work in person on *three* different days with at least *three* different employers need not be questioned further with respect to work search. Likewise, *when all pertinent factors are considered*, it may be determined that the claimant actively sought work even though fewer than three in-person job contacts were made and/or these contacts were made on fewer than three days. ***The adequacy of the claimant's work search is measured in light of all***

**available information. Any deviation from the requirement of "three different contacts on three different days" must be documented in writing.**

*Commission Regulation 10.25 (A) and Commission Precedent Decision No. 23 - In re Lambert* may be cited as sources of legal authority to anyone who questions the reasoning used in determining an active search for work.

**NOTE:** Staff are reminded that the work search provisions of the Law do not apply to claimants who are enrolled in Commission Approved Training or WIA sponsored training.

#### **A. Criteria for Determining an Active Search for Work**

Factors to be considered in determining whether a claimant is making an active search for work include:

- ⌚ the claimant's skill levels and occupational classifications;
- ⌚ hiring practices and customs pertinent to the claimant's occupational classifications;
- ⌚ the claimant's job potential in the geographical area in which he would reasonably be expected to accept work (usually the local area);
- ⌚ current labor market conditions; and,
- ⌚ the number and frequency of job contacts.

#### **B. Job Contacts**

Totally separated claimants must list on Form NCUI 506E, *Work Search Record*, each employer contacted and the date of the contact for each week that benefits are claimed.

All job contacts must be in-person contacts, unless the claimant can show employment in his field(s) of work is normally obtained through submission of resumes, telephone contacts, etc.

In-person contacts with a union agent, or union hiring hall shall be considered as only one job contact. Repeated contacts with the same employer each week are not acceptable.

#### **C. Suitability of Work Involving Claimant's Highest Skills**

If, at any time during a claim series, it becomes apparent that a separated claimant has no reasonable possibility of either finding work or being offered work in his primary occupation, then he must seek and accept work in other occupations in which there is a reasonable possibility of obtaining employment. If the claimant is not qualified by experience or training to meet the requirements of other

employment, refer him to counseling staff for assistance in securing retraining or changing occupations.

If a claimant refuses to seek or accept work in other occupations for which he is qualified, or if he refuses to accept a referral to counseling, testing and/or training, his claim must be referred for adjudication on the issue of availability. This procedure also applies to job referrals.

#### **D. Claimant Exhausts Employment Possibilities**

If a claimant has exhausted all potential opportunities for work, the office manager or their designee may temporarily suspend work search requirements for that claimant based on the claimant's skill, prior training, experience, and previous efforts to find work in relation to the local labor market. Each work search suspension is limited to four weeks. However, the work search requirements may be suspended for additional periods of four weeks, provided that the claimant's potential opportunities for suitable work are re-evaluated for each such period. Each suspension must be certified to in writing by recording on the claim record comment screen, the beginning and ending dates of the suspension, and the number(s) representing the local labor market condition(s) which led to the suspension, as follows:

1. 1. major layoff and/or no hiring by employers;
2. 2. seasonal unemployment;
3. 3. plant shut-down or ceased operating (to be used only when the plant is the primary or only source of jobs in the area); or,
4. 4. other (must specify reason).

The dates of the work search suspensions and the initials of the person who authorized it must be recorded on Screen Y1. Example: Work Search suspended from 01-04-04 to 02-28-04 JHC. Work search requirements *cannot* be suspended for claimants who are receiving any type of extended benefits, *except* those claimants enrolled in CAT or WIA sponsored training.

#### **E. Claimant Secures Full-time Work**

If a claimant notifies the agency in person or by telephone that he has obtained full-time work, review his claim status; advise him of any further weekly certifications he should complete. Enter the return to work date and the employer's name on Screen Y1.

#### **BPS Data Entry Screen References**

Y1 - Claimant Comment Data Entry

#### **BPS Inquiry Screen References**

07 - Benefit Payment History

#### **5.16 Earnings Reported by Claimant**

A separated claimant **must** report any work performed and any gross earnings (earnings before any deductions for withholding taxes, Social Security, etc.) earned

each week for which benefits are claimed. Earnings in the form of "payment in kind" instead of money must also be reported. Commission Regulation 2.35 contains a table for converting room and board into money values. Other types of payment in kind should be reasonably valued and reported as well.

Any odd job earnings reported by an *attached* claimant must be added to the claimant's regular earnings and the total entered on Form NCUI 501, *Benefit Claim For Attached Worker*.

#### **A. To Be Reported as Earnings**

A claimant must report as earnings any of the following:

1. 1. any amount payable with respect to a particular period of time (day, week, etc.), regardless of the manner or conditions under which the amount is computed and/or paid, must be reported as earnings on any claim for a week covering all or any part of the period for which the amount (earnings) is payable;
2. 2. services as an election official;
3. 3. selling products for a manufacturer, distributor, etc.

#### **B. Not To Be Reported as Earnings**

Remuneration received from the following sources is not considered to be earnings and should not be reported as such on a weekly certification:

1. 1. Social Security benefits;
2. 2. jury duty;
3. 3. witness fees;
4. 4. Workmen's Compensation;
5. 5. life insurance dividends;
6. 6. SUB (Supplemental Unemployment Benefits); and,
7. 7. National Guard Unit or U.S. Armed Forces Reserve Unit activities.

#### **C. Training Allowances from the Veterans Administration**

Receipt of a training allowance from the Veterans Administration does not in itself make a claimant ineligible for benefits, nor should the allowance be reported as earnings. However, receipt of such an allowance requires a close examination of the claimant's availability for work.

### **5.17 Retirement Pensions**

Process retirement pensions according to the following guidelines.

#### **A. Separated Claims**

If, at the time the initial claim is filed, the claimant is receiving a *deductible* retirement

pension, prepare Form NCUI 563R, *Retirement Payment Determination*. Take the claim in the usual manner, entering the pension information on Screen B1. To receive credit for a non-monetary determination, on the next work day, access Screen C1 and set and resolve Issue Code 63, Pension. The Benefit Payment System will automatically deduct the pension from the claimant's weekly benefit amount whenever a continued claim is processed. Unless the claimant reports a change in his retirement pension, no further action is required by the office during the benefit year. Give the claimant the original Form NCUI 563R; retain a copy.

Occasionally, deductible pension information is not reported until the claimant has already received one or more weeks of benefits. In such an instance, complete Form NCUI 563R and use Screen C3 to enter the pension information into the system immediately. To receive credit for a non-monetary determination, access Screen C1 and set and resolve the issue. Since the system cannot automatically make retroactive deductions, staff must advise the Benefit Payment Control Unit of the pension amount and the week(s) to which it applies. Benefit Payment Control Unit staff will establish overpayments and notify the claimant of his repayment responsibilities.

If there is a change in the pension amount, complete a new Form NCUI 563R. Access Screen C3 and enter the pension amount. If the Benefit Payment System has already set an issue based on the claimant's answer on a weekly certification (answered "yes" to change in pension/training/school), enter Issue Code 00 to prevent the issue from being set again. Access Screen C1 to set and resolve the issue on the same day. Give the claimant the original Form NCUI 563R; retain a copy.

If a claimant with a retirement pension reports earnings on the weekly certification, the Benefit Payment System compares the reported earnings with his earnings allowance. If the reported earnings exceed his earnings allowance, the claimant's weekly benefit amount is reduced accordingly. The weekly portion of the claimant's retirement pension is then deducted from the remaining weekly benefit amount.

#### BPS Data Entry Screen References

B1 - Initial Claim Information	C1 – Non-monetary Determination
C3	- Establish Issue or Pension Amount

#### **B. Attached Claims**

An employer who learns that an attached claimant is receiving a retirement pension (or that a change has occurred in a previously reported pension amount) will make a notation to that effect on Form NCUI 501 and instruct the claimant to report to the local office to file his claim. If the pension is deductible, take the actions described below.

1. Complete Form 563R, *Retirement Payment Determination*.
2. If the attached claim is a new claim, access Screen B1; enter the claim and the pension amount. On the following day, access Screen C1 and set and resolve the pension issue.
3. If the attached claim is a weekly certification, access Screen C3 and enter



the pension

amount. Then access Screen C1 and set and resolve the pension issue.

3. 4. Post "Pension" in red at the top of Form NCUI 501 and route it to the central office. Give the claimant the original Form NCUI 563R; retain a copy.

#### BPS Data Entry Screen References

B1 - Initial Claim Information C3 - Establish Issue Or Pension Amount

C1 – Non-monetary Determination

### **5.18 Nonpayment of Benefits Caused by Claimant's Actions**

Once a monetary determination showing that a claimant has established a benefit year has been issued, payment of benefits is not stopped **unless**:

- ⌚ a non-monetary determination on the claimant's separation is pending, or
- ⌚ a written non-monetary determination disallowing benefits or holding the claimant ineligible for benefits has been issued. Even if this determination is appealed, it is binding until changed.

However, certain actions on the part of the claimant can result in the *suspension* of benefits until those actions are explained and/or resolved.

#### **A. Late Reporting**

To be timely, a weekly certification (whether filed by telephone, internet or mail) must be *received* by the Commission within fourteen (14) days after the last day of the calendar week for which the claim is filed. The fourteen day period for mail-in claims begins after the last day of the *second* calendar week for which a claim is being filed, if the claim form covers two consecutive weeks. A weekly certification received after the specified ten day period is considered late; the Benefit Payment System automatically sets a late reporting issue.

When they file a late claim, telephone claimants receive verbal instructions and internet claimants receive a written message to report to their office to resolve the late filing issue. Mail claimants who file late are sent a computer generated message instructing them to report to the local office to resolve the late filing issue.

Follow the instructions in Sections 5.18 C. or D. of this chapter to resolve a late filing issue.

#### **B. Unanswered Questions on Form NCUI 506D**

If a mail-in claimant fails to answer all the questions on Form NCUI 506D, staff will return the claim along with a form letter explaining what additional information is needed or instructing the claimant to report to the local office for assistance. Screen 25--NCUI 506 Tracking Inquiry contains information used to track claims that are

returned for additional information. This tracking information is updated each night after the claims processing is completed. If a corrected pay order is not returned for processing within 60 days, the system automatically deletes tracking information for that claim. See section 5.4 of this manual for further details.

### **C. Answers to Eligibility Questions**

If a claimant's answer(s) to the questions on the weekly certification raises an able and available issue (Issue Codes 07, 19, 43, 66, or 86), the Benefit Payment System automatically sets the appropriate issue code on Screen 02R -- Non-monetary Determinations and posts the unpaid benefit week(s) on Screen 07--Benefit Payment History, as pay type 12. The system will only hold the week in which the issue was raised; any otherwise eligible week(s) will be released for payment.

If a claimant's answer to the question, "Did you refuse work, or quit a job, or were you fired from a job?" sets Issue Code 27, the Benefit Payment System automatically sets the issue code on Screen 02R -- Non-monetary Determinations and posts the unpaid benefit week on Screen 07--Benefit Payment History, as pay type 12. The system will only hold those weeks with a weekending date equal to or greater than the week-ending date of the week in which the issue was raised; any otherwise eligible weeks will be released for payment.

A telephone claimant immediately hears a message instructing him to report to his local office to resolve the issue. A mail claimant is sent a computer generated message instructing him to report to his local office for assistance. A claimant filing via the internet is given a screen with a message telling him to contact his office.

When the claimant reports to the office, review Screen 16 or Screen 25 to determine the reason an issue was set. If the unresolved issue is an able and available issue, prepare a fact finding report and refer the claim to the office Adjudicator for a determination. If the unresolved issue is other than an able and available issue, prepare the appropriate fact finding report; route the fact finding report and related documents to the Adjudication Unit in the central office.

If the claimant fails to report within 20 days, the issue will appear on the *Active Issue Report*. At that time, staff should take appropriate action, as described in the preceding paragraph, to resolve the open issue.

### **D. Failure to Report for ERI/PI**

The Benefit Payment System automatically sets Issue Code 76, Late Reporting - ERI/PI, whenever *Code 02 (No report - ERI)* or *Code 10 (No Report - PI)* is entered in the LAST CALL-IN DISPOSITION data field on Screen E2--Update Eligibility Review Information.

If a disposition code is not entered for an ERI/PI call-in notice, the Benefit Payment System automatically sets Issue Code 76 when a continued claim with a week-ending date that is after the scheduled ERI or PI date is processed. Depending on the

claimant's filing method, he will receive a verbal message or a written notice to report to resolve the issue.

If the claimant fails to report within 20 days, this issue will appear on the *Active Issue Report*. Staff should take appropriate action to resolve the open issue.

The Agency takes the position that the claimant shall be allowed to reschedule their appointment when circumstances beyond their control make it impossible to meet the appointment as scheduled. Within reason, the claimant should be allowed to reschedule appointments at a mutually agreed upon convenient time. The reason for rescheduling does not have to meet the rigid good cause standards set forth in ESC Regulation No. 10.22. In addition, no issue of late reporting or failure to report should be raised if the claimant provides prior notice of their inability to report for the scheduled appointment and requests that it be rescheduled. It is the consultant's responsibility to document such requests on screen 18.

If the cause of the claimant's failure to report raises an able and available issue the matter must be referred for adjudication.

To resume ERI scheduling that has been stopped (the interval was set at 00 or code 02, 03 or 10 was entered in CALL-IN DISPOSITION field on Screen E2), the claims taker must access Screen E1 and enter the new ERI call-in interval in the CALL-IN INTERVAL data field.

#### BPS Inquiry Screen References

02R – Non-monetary Determinations 07 - Benefit Payment History  
25 - NCUI506 Tracking Inquiry 26 - ERI Information

#### BPS Data Entry Screen Reference

C1 – Non-monetary Determination E2 - Update Eligibility Review Information  
E1 - Request ERI Call-in Notice Z9 – Pay order Certification

### **5.19 Referring and Adjudicating Able and Available Issues and Late Reporting Issues**

Office staff are responsible for adjudicating able and available issues and late reporting issues for mail-in, internet and telephone weekly certification. If another issue exists in addition to an able and available issue or late report issue, prepare fact finding reports for all issues; route the fact finding reports and other pertinent documents to the Adjudication Unit in the central office only if time has passed for the Able and Available issues to be handled timely, otherwise, the office should adjudicate the able and available issue(s) and send only the separation issue to the Central Office adjudication unit.

### **A. Adjudicating Able and Available Issue**

The actions described below should be taken to process and adjudicate an able and available issue.

1. 1. Conduct a fact finding interview.
2. 2. Adjudicate the issue.
3. 3. Access Screen C1, *Non-monetary Determination*; set and resolve the issue.

**Reminder:** *DOCKET NO* field on Screens C1 and C2 is a required field. Depending on the action being taken, either a non-monetary determination docket number or the payroll number of the person responsible for the action is entered in this field. Under no circumstances are zeroes to be entered in *DOCKET NO* field.

1. 4. If necessary, access Screen Z9 and process any contested continued claims.
2. 5. Retain any claim cards in the local office for audit purposes.

### **B. Adjudicating Late Mail Claims (Received in the Local Office)**

In those instances where a late mail claim is accepted in the local office, take the following actions:

1. 1. Conduct fact finding and render a determination while the claimant is in the local office.
2. 2. Access Screen C1; set and resolve Issue Code 86.
3. 3. Access Screen Z9 and process the continued claim(s), as appropriate.
4. 4. Retain the claim card(s) in the local office.

### **C. Adjudicating Late Mail Claims (Received in the Central Office)**

Late mail-in weekly certifications received in the central office are processed as follows:

1. 1. Central office staff set a late reporting issue.
2. 2. The Benefit Payment System automatically mails the claimant a notice instructing him to report to resolve the late reporting issue.
3. 3. Staff are responsible for conducting fact finding, rendering a determination, and posting it to the system.

### **D. Adjudicating Late Telephone/Internet Weekly Certification**

Late reporting issues involving telephone/internet weekly certifications are processed as follows:

1. 1. The voice response system and internet accepts the claim and instructs the claimant to report to resolve the late reporting issue.
2. 2. When the claimant reports to the office, designated staff conduct fact finding and render a determination.
3. 3. The office Adjudicator posts the determination to the system. If the claimant reports on the same day the claim was filed wait until the next day to resolve

the issue and post the determination.

## **5.20 Removal of Indefinite Disqualification Less Than Two Years Old**

Any individual who receives an indefinite disqualification may remove that disqualification if he (a) returns to work for at least five weeks, and is paid cumulative wages of at least ten times his weekly benefit amount; (b) subsequently becomes unemployed through no fault of his own; and (c) meets the availability requirements of the law.

To meet the requirements listed above, an individual must have one period of employment which lasts for a period of more than thirty (30) days (regardless of whether work was performed on all of those days). In addition, the reason for separation from his last bona fide employment must be non-disqualifying. A substantial fault separation does not meet the test of "unemployed through no fault of his own." (See Section 3.27 in Chapter 3 of this manual for instructions concerning the removal of an indefinite disqualification.)

## **5.21 Computer Claim Records - Current (0) and Inactive (1-10) Sequences**

Benefit Payment System claim records are maintained differently than local office claim record files. In the local office, claim record files for totally separated claimants and "exceptional" attached claimants are transferred to the inactive or "dead file" for one year after the benefit year ends and are then destroyed. In the Benefit Payment System, Record "O" remains the active claim record until a subsequent new claim "bumps" it to record "1" (most recent benefit year). If a third benefit year is established, it becomes record "O"; the first and second benefit year records become records "2" and "1" respectively. Currently, the system can hold up to ten records for each claimant.

Due to the complexity of the benefits charging system local and central office staff should not do data entry to 'closed out records'. Any transactions that would affect payment or overpayments on a 'closed out record' should be done only in the Central office and then only after advising the Benefits Charging Unit in the Central office.

If a claimant wishes to file a weekly certification for a week that falls in a prior benefit year that is now a closed out record, take the claim on a blank Form NCUI 506D. If necessary, conduct fact finding and have the local office Adjudicator rule on any able and available or late reporting issues.

If the claimant is found eligible for the week, send the desk claim along with an explanatory Form BM-17, *Interoffice Communication*, to the charging unit in the Benefits Department; enter the number of the inactive claim record in the top right corner of the desk claim, adjacent to the end of the claimant's Social Security number.

If the claimant is found ineligible for the week, it must still be entered into the system in order for the non-monetary determination to be counted.

## **5.22 Corrections and/or Adjustments to Claim Records**

Designated staff may make some corrections and/or adjustments to claim records. However, access to certain data entry screens is restricted to specific units or staff in the central office.

Local office staff may become aware of the need for corrections and/or adjustments from several different sources, including (a) computer generated letters sent to totally separated claimants, (b) central office form letters requesting additional information and/or correction of a mail claim form, and (c) "exceptional case" Forms NCUI 501 which the employer gives to the claimant to bring to the local office.

Regardless of where the instructions and/or the request for correction or adjustment originated, many claimants will contact the local office for assistance. If the correction or adjustment is one that the local office is authorized to make, take needed action and, if appropriate, notify the central office of that action. If the correction cannot be made by the local office, notify the appropriate central office staff of the needed correction.

#### **A. Changes to Pay Orders**

***Only designated staff in the Benefit Payment Control Unit in the central office are authorized to make changes in claimant compensation amounts.*** Send a message to the BPC electronic mailbox to notify the Benefit Payment Control Unit of required changes in reported earnings, etc. Include the claimant's name, Social Security number, and the date of the week affected, the correct earnings amount and the source of the information. If it is believed that fraudulent activity has taken place, prepare Form UIC 78, *Request from Local Office for Investigation of Questionable Activity*, instead.

#### **B. Name or Address Change**

Correctly making changes to basic data such as the claimant's name and address is a critical task and should be undertaken with great care and due diligence. Only a request by the claimant or his legal representative should cause a staff member to change such basic data. The claimant or his legal representative can appear in person at a local office or call center or they may telephone in such a request. Due to security reasons such requests are not accepted via e-mail, fax or regular mail.

If claimant appears in person require the individual making the request to present some form of positive identification such as a driver's license or in those cases of a name change a new social security card bearing the corrected name. Use Screen CD to make name and/or address changes. The system creates an audit trail of who makes such changes. However, staff may wish to use Screen Y1 to post pertinent comments regarding these requests to the claim record.

If the request is made by telephone, before entering the change on the CD screen staff must require the claimant to provide and match at least three of the following data elements:

1. 1. Date of birth
2. 2. Mailing address

3. 3. Name of last employer
4. 4. Last date worked
5. 5. Name of another base period employer

If the claimant is unable to satisfy the requests for identifying information, instruct the claimant that they must report to a local office or call center with a picture ID to have the data changed. For audit purposes, the staff member should make comments using the Y1 screen noting that the change was made per the claimant's telephone request.

In those rare instances where the claimant's legal representative (i.e. executor of his estate) requests such a change the staff member should require some paper documentation of the legal representative's status as such and the reason they are making such a request. Such signed paper document can be faxed, mailed or presented to a staff member. Such document should be kept on file for audit purposes and a comment made on the claim file using the Y1 screen noting that the change was made at the request of claimant's legal representative (provide the representative's name and a short comment of why the request was made).

If a claimant reports a change of address while a hearing or a final decision by a hearing officer is pending, send a memo or e-mail immediately to the department and/or hearing officer who has current jurisdiction of the questionable issue, setting forth the new address and, if known, the docket number of the case.

**NOTE:** When making an address change, if necessary, enter a J1 transaction to reissue the claimant a pay order.

#### **BPS Inquiry Screen References**

XX - Transaction Review 01 - Claimant Profile Data  
10 - Duplicate/Reissue Checks 24 - Miscellaneous Audit  
23 - Name/Address Audit

#### **BPS Data Entry Screen References**

Y1 - Claimant Comment Data Entry B1 - Initial Claim Information  
CD - Client Data J1 - Issue Duplicate Pay order

### **5.23 Submitting Corrections of a Benefit Claim for Attached Worker**

The following paragraphs contain information on how to correct information submitted via paper, tape, diskette or internet.

#### **A. Claim Submitted with an Address Change**

If a claimant's address changes while he is filing attached claims, the employer enters the new address on the attached claim. When electronic submissions are

processed, the Benefit Payment System automatically changes the claimant's address on computer records. The Common Data Entry Unit will make corrections for those claims submitted on paper when the claim is keyed. There is no audit trail of such address changes.

## **B. Claims Submitted with a Name Change**

As a security measure the Benefit Payment System will reject any submission which contains a name different from that on record in the Commission's file. Central office staff will contact the employer regarding the name discrepancy and will make any necessary changes in the claim record or reject the claim if appropriate.

## **C. Claims Submitted with Incorrect Earnings**

If an employer notifies a staff member that an attached claim was submitted showing incorrect earnings, proceed as follows:

1. 1. If the week has been processed, instruct the employer to write a letter which identifies the claimant by name and Social Security number and specifies the corrected earnings, to the Benefit Payment Control Unit in the central office. Upon receipt of this letter, the Benefit Payment Control Unit staff will (1) enter an A8 transaction into the system, (2) make a notation on the letter that the claim record has been corrected, and the date the correction was made and, (3) retain the letter for audit purposes. The file will be destroyed according to the normal record retention schedule.
2. 2. If the week has not been processed, call the Intrastate Claims Unit in the central office and advise them of the earnings correction. The Intrastate Unit will (1) set a 99 issue to prevent the week from being paid, (2) call the employer and request a letter verifying the correct earnings and, (3) process the week when verification of the corrected earnings is received.

**Exception:** *Intrastate Unit staff cannot correct the earnings if the submission is establishing a new claim; until the claim is established, weekly earnings cannot be changed.*

### **BPS Inquiry Screen References**

07	-	Benefit	Payment	History	23	-	Name/Address	Audit
01	-	Claimant	Profile	Data	24	-	Miscellaneous	Audit

### **BPS Data Entry Screen References**

CD - Client Data      A8 - Change Pay order Compensation B1 -  
Initial Claim Information

## **5.24 Processing Benefits Checks**



The following paragraphs contain information pertinent to the issuance and processing of benefit checks.

### **A. Issuance of Benefit Payments**

Issuance of benefit payment is done through the central office.

If the payment is via a paper check then it is printed and mailed to the claimant at the address on the Benefit Payment System. See section 5.21 B of this manual for instructions concerning address changes.

If the payment is via direct deposit then payment is sent electronically to the Automated Clearing House (ACH) for distribution to claimant's bank. The payment is routed using the routing numbers given by claimant on Form NCUI 500 TW or NCUI 500 TWC. See section 3.7 of this manual for instructions concerning changes to direct deposit.

#### **BPS Data Entry Screen Reference**

CD	-	Client	Data
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### **B. Non-Delivery of Benefit Payment**

If a paper check is sent to an incorrect address the staff member should send an e-mail to the BPC mailbox alerting them that a new address has been entered on the Benefit Payment System and requesting that the returned check be re-mailed to that corrected address.

Whenever an undeliverable benefit check is returned by the Postal Service the Benefit Payment Control Unit will examine system records in an effort to obtain a correct mailing address.

If the current system address differs from that on the returned check, the BPC staff member will re-mail the check to the address posted on the Benefit Payment System.

If the current system address is the same as the address on the returned check, the BPC staff member will enter a transaction showing that the check was returned and will then cancel the check. Such checks will be reissued by the BPC unit only upon request. Once the check is reissued an entry is made on Screen 10 in the Benefit Payment System.

If perchance a direct deposit was sent to an incorrect account number the staff member should contact the Benefit Payment Control Unit via telephone for instruction and assistance.

If a direct deposit is returned by the ACH, the BPC staff member will take the claimant out of direct deposit and reissue the payment as a paper check. The BPC unit will send claimant a letter explaining why they were taken out of direct deposit and will be instructed to resubmit any request to be put back into direct deposit by completion of

BPS Inquiry Screen References

01	-	Claimant	Profile	Data	XX	-	Transaction	Review
07	-		Benefit				Payment	History

BPS Data Entry Screen References

CD - Client Data	H1 - Missing Benefit Check (Restricted)
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**C. Alteration of Benefit Checks**

All agency personnel (local office and central office) are strictly forbidden to alter benefit checks. If a claimant returns a check that he contends is incorrect to the agency, carefully examine all pertinent claim records. If it appears that the check is incorrect and the error is something other than an underpayment, return the check along with a memorandum explaining the situation to the Benefit Payment Control Unit in the central office. If there is any evidence of fraud, prepare Form UIC 78, *Request from Local Office for Investigation of Questionable Activity* and attach the check, rather than a memorandum.

If the claim records indicate the check is correct, explain that to the claimant. If he is not satisfied with the explanation, return the check along with an explanatory memorandum to the Benefit Payment Control Unit.

If the only error in the check is an underpayment of the amount due, advise the claimant that he can cash the check and that he will be issued an adjustment check for the balance due him. Send a memorandum describing the details of the underpayment (see section 5.21 of this manual for information required) and requesting an adjustment check to the Benefit Payment Control Unit.

**D. Processing Benefit Checks of Deceased Claimants**

Take the following actions to process inquiries from a representative or employer of a deceased claimant regarding cancelled or un-cashed benefit checks, attached claims for which the claimant was entitled to benefits or Forms NCUI 506D which the claimant signed but did not mail.

1. Determine whether an executor or administrator has been appointed to handle the deceased claimant's estate.
- ☐ 2. If no executor or administrator has been or will be appointed, ascertain from the inquirer the estimated value of the deceased claimant's estate.
- ☐ a. If the estimated value of the estate is less than \$5,000, advise the representative to go to the Clerk of Superior Court of the county in which the claimant resided at the time of his death and request information on preparing an affidavit in accordance with Article 25 of Chapter 28 of the State Statutes. Mail the affidavit and the un-cashed check(s) or signed claim forms, along with a covering memorandum to the Benefit

Payment Control Unit for processing.

□.b. If the estimated value of the estate is more than \$5,000, instruct the inquirer to bring any un-cashed check(s), Forms NCUI 501, or signed Forms NCUI 506D to the local office. If claim records indicate that the claimant was eligible for benefits for the week(s) in question, send the check(s) and/or claim forms along with a covering memorandum to the Benefit Payment Control Unit for processing. Inform the representative that payments will be issued to the Clerk of Superior Court of the county in which the claimant was residing at the time of his death.

3. If it is determined that an executor or administrator has been appointed to handle the estate of the deceased claimant, advise the inquirer or representative that the executor or administrator must make a formal request for the re-issuance of any un-cashed check(s) or for payment of any un-filed eligible claims. This formal request must be accompanied by a copy of the Letters of Administration and any documents pertaining to the check(s) issued or eligible claim forms. The executor or administrator of the estate may either bring the formal request and attached documents to the local office for transmittal to the central office, or mail them directly to the central office Benefit Payment Control Unit.

No action will be taken with respect to reissuing any check(s) or issuing payment for un-filed claims until a request for such action is received. Such payment will be done by paper check. Direct deposit is not an option for a deceased claimant.

#### BPS Inquiry Screen References

07 - Benefit Payment History 10 - Duplicate/Reissue Checks

13	-	Benefit	Payment	History	II
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#### **E. Cashing, Endorsing, or Witnessing Endorsements of Benefit Checks**

***Agency personnel are prohibited from cashing, endorsing, or witnessing endorsements on checks for unemployment benefits.***

#### **F. Delayed Checks**

When a claimant inquires about an overdue check, access Screen 07 to determine whether the claim has been received and whether a check has been written. If a check has been written, advise the claimant of the mailing date (normally it is the day following the 'check DOI' date). If the claim for the week in question has not been received, advise the claimant to re-file the week. If the claim has been received but no check has been written, access other Benefit Payment System screens, as appropriate, to determine why payment has not been made. Explain the reason for nonpayment to the claimant.

#### BPS Inquiry Screen References

XX - Transaction Review OF - Offline Payment History

07 - Benefit Payment History 23 - Name/Address Audit

### **G. Investigation of Lost or Stolen Benefit Checks and Stop Payment Requests**

If a claimant contends that he has not received a check(s) which Benefit Payment System records indicate has been issued, take the following action:

1. 1. Wait at least 14 calendar days from the date the claim was filed before requesting an investigation. This is the average amount of time it takes an undeliverable check to be returned by the Postal Service and thus gives some time for any problems in mail delivery to be resolved.
2. 2. Help the claimant identify with as much certainty as possible the week ending date(s) of the missing check(s).
3. 3. Complete a "Request For Check Investigation" via e-mail to the Benefit Payment Control Unit's mailbox.

If the check has not been cashed, the BPC unit will send an affidavit to the claimant. The claimant will be instructed to have the affidavit notarized and return it to the central office if he has still not received the check in question. He will also be instructed *not* to cash the *original* check if he receives it after mailing the affidavit to the BPC unit. Upon receipt of the affidavit, the BPC unit will submit a stop payment request on the original check to the State Treasurer and issue the claimant a duplicate check upon notification by the State Treasurer.

If the check has been cashed, the BPC unit will send the claimant a photocopy of the cancelled check and an affidavit. If, after examining the endorsement on the check, the claimant still contends that he neither received nor derived benefit from the check, he will be instructed to have the affidavit notarized and return it to the BPC unit. Upon receipt of the affidavit, the BPC unit will issue a replacement check and/or initiate a check investigation to try to determine who cashed the original check.

Because the procedures which must be followed in lost or stolen check investigations can vary considerably from one case to another, it is not possible to specify the amount of time each check case will involve; however, each case will be investigated and, if warranted, replacement checks will be issued as speedily as possible.

Screen BP30--BPC Inventory Check Case Status, located in the Miscellaneous Benefit System, displays the status of any on-going investigation into a missing or stolen unemployment insurance check.

#### **BPS Inquiry Screen References**

07 - Benefit Payment History 10 - Duplicate/Reissue Checks

13 - Benefit Payment History II

### **H. Returned Benefit Checks**

If a claimant returns a benefit check to a staff member for any reason, the staff member must prepare a receipt in triplicate using an agency receipt book. Give/mail the original receipt to the claimant. The first copy is sent to the BPC unit with the returned check and the third copy is retained by the author in the receipt book. Prepare a memorandum which explains the reason the check is being returned.

If the check is being returned because the claimant was not due the payment or was entitled to a reduced payment due to unreported earnings/pension, include sufficient information for the processing of an overpayment. See section 5.22 A of this manual for a listing of what information is needed.

If claimant was not eligible for benefits due to an adjudicable issue rather than unreported earnings, prepare the appropriate fact finding form

The staff member returning the check should enter comments using the Y1 Screen to indicate the check number(s) being returned and a short explanation of why the check is being returned (include earnings information if that is the cause of the return). Attach the returned benefit check and a copy of the receipt to the memorandum/fact finding report and send the documents to the Benefit Payment Control unit.

### **5.25 Termination of Benefit Rights**

Once a benefit year has been established, a claimant's benefit rights terminate normally under one of the following conditions:

#### **A. Exhaustion of Maximum Benefit Amount**

A claimant is entitled initially to receive an amount equal to the number of weeks duration times his weekly benefit amount for periods during which he meets the eligibility conditions. The maximum benefit amount rather than the number of weeks claimed is the controlling factor. Approximately two weeks before he exhausts his benefits, the claimant receives a message (either verbal or written, depending on filing method) informing him that he has two weeks or less of benefits remaining. A notice of final payment accompanies a paper check which exhausts benefits. The benefit payment that exhausts benefits is coded as pay type 16 (final payment) on Screen 07. If the claimant submits another pay order during the benefit year in which benefits are exhausted, the pay order is displayed on Screen 07 as pay type 15 (benefits exhausted) and, of course, is not paid.

#### **B. Expiration of Benefit Year**

The majority of benefit years cover a 52 week period. However, when the benefit year begins on the first day of a calendar quarter, or when the benefit year begins the second day of the calendar quarter and is followed by a February 29, within that benefit year, the result is a 53 week benefit year. If a claimed week of unemployment starts during a benefit year, but ends after the benefit year ending date, the benefit year date is extended to the last day of that week. Shortly before a benefit year ends the claimant

will receive a message (either verbal or written, depending on filing method) informing him that his benefit year will soon end.

If a claimant's employer submits an attached claim for a week beginning after his benefit year has ended, it will establish a new benefit year for the claimant, if he has qualifying base period wages.

Instructions for taking transitional claims for totally separated claimants are described in Chapter 3 of this manual.

**BPS Inquiry Screen Reference**

07	-	Benefit	Payment	History
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## **Chapter 6 Issues and Adjudication**

### **6.1 Introduction**

Sections 96-13 and 96-14 of the Employment Security Law define the conditions and requirements for receiving unemployment benefits and the penalties that may be imposed on individuals who fail to meet those conditions and requirements.

Representatives designated by the Commission are required to examine claims to ensure that they meet the statutory and regulatory requirements and for ensuring that detected issues are promptly referred for adjudication. When unnecessary issues are raised and referred for fact-finding and adjudication, the time to resolve these unnecessary issues negatively affect the amount of time available to resolve the legitimate issues in a timely manner. In addition, the payment of unemployment insurance benefits to a claimant may be inappropriately delayed. Designated representative must familiarize themselves with established interpretations, precedent decisions, law and regulations concerning claimant eligibility and qualification for benefits and raise only those issues required to be raised after proper examination of the claim.

All able and available issues are adjudicated by office staff **except** when there is a simultaneous separation or suitable work issue. In such instances, both issues are referred to the Central Office Adjudication Unit.

Claimants who are disqualified because of separation issues may be denied benefits indefinitely (for the duration of the claimant's unemployment) or, in the case of substantial fault attributable to the claimant, for a designated number of weeks (time certain disqualification). Claimants who are disqualified on suitable work issues are denied benefits for the duration of their unemployment.

Claimants who fail to meet the weekly eligibility conditions are denied benefits. This period of ineligibility may be indefinite (until the restriction is removed) or time-certain (the week or weeks in which the ineligible condition occurred).

### **6.2 Types of Issues**

Claim issues are classified as *separation* issues, *suitable work* issues, *eligibility* issues, and *able and available* issues. Information about each type of issue follows.

#### **A. Separation Issues**

A *separation* issue exists whenever a claimant is separated from his last bona fide employer for any reason other than *lack of work* or *inability to perform the available work*.

Separation issues include voluntarily leaving work, discharge from work, leaving work for health reasons, unemployment caused by an on-going labor dispute, failure

to return to self-employment, and voluntary sale of one's share of the employing entity. Section 96-14 of the Employment Security Law describes the penalties applicable to separation issues and the circumstances under which a penalty is imposed.

## **B. Suitable Work Issues**

A *suitable work* issue exists whenever a claimant fails to apply for work as directed by the Job Service; fails to accept offered work; or fails to return to customary self-employment when so directed by the Commission. The availability and suitability of the work for the claimant must be closely examined in these instances. Penalties applicable to suitable work issues and the circumstances under which a penalty is required are described in Section 96-14(3) of the Employment Security Law.

## **C. Eligibility Issues**

Section 96-13(a) provides that unemployed workers who meet the statutory eligibility requirements may receive unemployment insurance benefits. Unemployed workers must (1) register for work with the Employment Service, (2) report to an employment office as directed, and (3) file a claim for benefits. An issue of *eligibility* occurs whenever an individual fails to comply with one of these statutory requirements. Examples of eligibility issues include whether the claimant is unemployed, self-employed, or employed; whether a separation payment requires the individual to be considered still employed; antedated claims; and failure to report as directed.

## **D. Able and Available Issues**

Paragraphs (3) and (4) of Section 96-13(a) of the Law describe the able and available requirements that claimants must meet. *Able and available* issues may arise in regard to an individual's physical or mental ability to work as well as his availability for work. Available for work means that a claimant has no barriers that substantially interfere with his obtaining suitable work. Examples of availability issues include but are not limited to shift restrictions, wage restrictions, lack of dependent care, and lack of reasonable transportation. Other factors that may impact on an individual's availability for work include:

- ⌚ work search;
- ⌚ unemployment due to a vacation declared by the employer;
- ⌚ attendance at a school, or a vacation period during or between successive quarters or  
semesters of the school he attends; ⌚ attendance at a school or training program approved by the Commission; ⌚ application for or receipt of total disability benefits under a State or Federal law; ⌚ employment status with an educational institution while between successive academic  
years or terms or other periods agreed upon;
- ⌚ a period between successive sport seasons;



- ⌚ immigration status;
- ⌚ unemployment caused by a bona fide disciplinary suspension; or,
- ⌚ positive test for a controlled substance.

### **6.3 Self-Employment**

If a claimant's last employment was self-employment, refer the claim for adjudication on the issues of (1) whether the individual is customarily self-employed and can reasonably be expected to return to self-employment, and (2) the reason(s) for the individual's separation from his last employment prior to becoming self-employed. While the issue of self-employment normally arises as a separation issue when a new claim is filed, it is not always a separation issue. *Section 5.13 in Chapter 5 of this manual contains a detailed discussion of self-employment as an availability issue.*

Refer a claim for adjudication whenever an issue of self-employment is detected.

### **6.4 Physical Disability**

A physical disability which prevents a claimant from working or which restricts his ability to engage in his customary occupation raises a question of the claimant's ability to work as described in G.S. 96-13(a)(3). Question the claimant carefully to determine whether he can perform the essential functions of the types of work that fall within his occupational classification(s) with or without reasonable modification. If the claimant is unable to continue in the type of work he last performed, his occupational classification must reflect a type of work that he is qualified to perform, is willing to accept and for which there is a reasonable likelihood that he will be hired. Refer the claim for adjudication if there is a question about the claimant's ability to work.

Section 96-13(a)(4) of the Employment Security Law states that an individual who is receiving or who has applied for benefits that are based on temporary or permanent total disability, under any State or Federal Law, is considered unable to work. Refer any such individual for adjudication.

### **6.5 Availability for Work**

To be eligible for unemployment insurance benefits, an individual must be available for suitable work, able to work, actively seeking work, and have no restrictions which prevent him from accepting suitable work.

Refer a claim for adjudication whenever a question of availability arises. Examples of questionable availability include:

- ⌚ no interest in securing a job;
- ⌚ lack of transportation to and from work;
- ⌚ home restrictions, such as no one to care for small children or sickness in the family;
- ⌚ shift restrictions (when a claimant will not accept work on the shift or shifts

which afford

substantially the only chances of employment - for shift workers only);  
⌚ not interested in work in a secondary classification when opportunities for employment in the primary classification are extremely limited or nonexistent; and, ⌚ any other reasons or situations which result in the claimant substantially removing himself from the labor market.

**Note:** *By itself, retirement does not automatically prevent an individual from receiving unemployment benefits. However, it may raise a question concerning that individual's availability for work.*

## 6.6 Claimant Wage Demands

Attention must be given to claimant wage demands during the initial claim interview. The Employment Security Commission's position on the issue of wage demands by claimants in the initial claims phase was articulated **In re Troutman**, a 1965 North Carolina Court of Appeals case. That case held:

Before work, calling for less competence and/or lower remuneration, can be found to be suitable an unemployment insurance compensation claimant is entitled to a reasonable length of time within which to find work at his higher skill, although the longer the claimant is unemployed the more he is obligated to take less desirable work and to make himself available to take it.

To ensure equal application of this principle to all claimants, the procedure described below has been established.

- No question of wage restriction should be raised during the first four weeks of a claim series as long as the wage demand is consistent with the claimant's wage history.
- Staff must review and evaluate the claimant's wage demands during the first Periodic Interview or Eligibility Review. Factors to be considered in determining whether a claimant's wage demands are restrictive include, but are not limited to: (1) the claimant's customary occupation; (2) the claimant's prior earnings capacity; (3) the lowest rate of pay the claimant will accept; (4) the availability of job openings and the prevailing wage rate in the labor market for a worker with the claimant's experience, skills, training, etc..., as reflected in published labor market documents and job orders received from employers within the claimant defined labor market; and, (5) the duration of the claimant's unemployment.
- The results of this review will determine whether the claimant should be allowed to continue seeking the original wage demand, or whether the claimant should be advised to lower the original wage demand to one that is verifiable in available labor market publications and job orders received from employers within the claimant's defined labor market.
- The claimant's wage demands must be reviewed, evaluated and updated during any subsequent Periodic or Eligibility Reviews.

## 6.7 Part-Time Work

Section 96-13(a)(6) deals with persons who work only part-time jobs and their

entitlement to unemployment benefits. It provides that a claimant shall not be denied unemployment benefits solely because the claimant is only available for part-time work. If a claimant restricts his availability to part-time work, the claimant may meet the eligibility requirements if all of the following conditions exist: (a) The claimant's monetary eligibility is based predominately on wages from part-time work; (b) The claimant is actively seeking and is willing to accept work under essentially the same conditions as existed while the claimant's reported wages were accrued; and, (c) The claimant imposes no other restrictions and is in a labor market in which reasonable demands exist for part-time service. If these conditions are met, then no issue should be raised as to the claimant's eligibility simply because the claimant is only available for part-time work. Staff members who examine this issue should refer to the claimant's base period wage records.

## **6.8 Controlled Substances**

Section 96-13(a)(3) of the Employment Security Law states that a claimant who tests positive for a controlled substance is not available for work under certain conditions. Employment Security Commission Regulations describe the procedures for handling this availability issue.

Whenever an office receives information from an employer that a claimant has tested positive on a controlled substance test administered by or on behalf of the employer, the issue must be adjudicated. No specific form is available for employers to use in reporting this information. They may use the same methods to report controlled substance test results as they use to report issues arising under G.S. 96-14(3) [suitable work/referral issues] to the Commission; i.e., telephone, copy of positive controlled substance test, written communication on company letterhead, etc. Office staff must document any verbal communication with the employer via data entry to Screen Y1.

***Reminder:*** The NC Public Records Law is applicable to such documentation and notes entered on Screen Y1 must be accurate and document the name of the person supplying the information.

When resolving this availability issue, the office adjudicator must determine: (1) whether the controlled substance test was administered pursuant to the requirements of G.S. 95-232, (2) whether the test was a required condition of hire for the job, **and** (3) whether the job was suitable for the claimant. Each of these elements must be answered in the affirmative in order to impose ineligibility for unemployment insurance benefits. If each of these elements is answered in the affirmative, the claimant must be held ineligible for benefits beginning the week the test was administered and continuing until the claimant presents to the agency a medical report of a subsequent controlled substance test that states the claimant does not test positive for the controlled substance for which the original test had been administered.

***An employer's assertion, that the controlled substance test was administered pursuant to the procedural requirements of G.S. 95-232, shall be accepted as establishing the first element. This presumption may be rebutted by the claimant by specifically showing that the test did not meet one of the following Procedural Requirements for the Administration of Controlled Substance Examinations:***

1. **1. Collection of Samples:** The collection of samples for examination or screening must be performed under reasonable and sanitary conditions. Samples must be collected in a manner reasonably calculated to prevent substitution of samples and interference with the collection, examination, or screening of samples.
2. **2. Approved Laboratories:** The employer may perform the screening test on-site for prospective employees provided that the samples which demonstrate a positive drug test result are sent to an approved laboratory for confirmation; or the employer may have an approved laboratory to perform both the screening and confirmation tests. ("Approved Laboratory" means a clinical chemistry laboratory which performs controlled substance testing and has been approved for the forensic urine drug testing programs by the U.S. Department of Health and Human Services or the College of American Pathologists for the type of tests and controlled substances being evaluated.)
3. **3. Confirmation of Samples:** If a sample produces a positive result, the approved laboratory must conduct a second confirmatory examination of the sample utilizing gas chromatography with mass spectrometry or an equivalent scientifically accepted method.
4. **4. Retention of Samples:** A portion of every sample that produces a confirmed positive examination result must be preserved by the laboratory that conducts the confirmatory examination for a period of at least 90 days from the time the results of the confirmed positive examination are mailed or otherwise delivered to the employer.
5. **5. Chain of Custody:** The employer or its agent must have established procedures regarding the chain of custody for sample collection and examination to ensure proper record keeping, handling, labeling, and identification of examination samples.
6. **6. Retesting of Positive Samples:** The employee or prospective employee must have the right to retest a confirmed positive sample at the same or another approved laboratory. The employer, through the approved laboratory, shall make confirmed positive samples available to the affected employee or prospective employee, or a designated agent, during the time which the sample is required to be retained.

## **6.9 Employees of Higher and Secondary Educational Institutions or Agencies**

The following paragraphs contain information about possible issues raised by employees of secondary and higher educational institutions or agencies.

### **A. Professional Employees of Higher Educational Institutions or Agencies**

A professional employee of an institution of higher education who serves in an institutional, research, or principal administrative capacity is not eligible for unemployment benefits based on such service for any week of unemployment that occurs during the period between two successive academic years, or during a period of paid sabbatical leave granted in the employee's contract, provided the employee has a contract or contracts to perform services for the institution for both such academic years or terms. See Section 96-13(b) of the Law.

### **B. Professional Employees of Secondary Educational Institutions or Agencies**

A professional employee of a secondary educational institution or agency is not eligible for unemployment benefits during non-school periods, so long as he retains any attachment to any secondary school system or agency. This attachment may be

in the form of a contractual or implied agreement to return to work with any secondary school system or agency at the beginning of the following school term or semester, or by any reasonable assurance that the worker will return to work with the school at the beginning of the next term or semester. See Section 96-13(b) of the Law.

### **C. Non-Professional Employees of Higher and Secondary Educational Institutions or Agencies**

A non-professional employee of higher and secondary educational institutions or agencies is not eligible for unemployment insurance during non-school periods so long as he has an attachment to any higher or secondary educational institution or agency. This attachment may be in the form of a contractual or implied agreement to return to work with any school system or agency at the beginning of the following school term or semester, or by any reasonable assurance (e.g., continued payment of insurance premiums during the summer months) that the worker will return to work with the school system at the beginning of the next term or semester. See Section 96-13(b) of the Law.

### **D. Substitute School Personnel**

In order to be eligible for unemployment benefits, a claimant must first establish that he is 'unemployed' as defined by N.C.G.S. 96-8(10). The following provision is found therein:

e. No substitute teacher or other substitute school personnel shall be considered to be unemployed for days or weeks when not called to work unless the individual is or was a permanent school employee regularly employed as a full-time substitute during the period of time for which the individual is requesting benefits.

The intent of this provision is to deny unemployment benefits to non-permanent substitute teachers and other substitute personnel for any week in which the individual is not called to work by the employer school system. This provision does not apply to a school employee regularly employed as a permanent, full-time substitute.

If a claimant has worked as a substitute teacher or substitute school employee and is on a list of substitutes to be called by the employer school system, then that claimant may not be considered unemployed for any week in which he was not called to work regardless of whether the benefit week in question falls within an established academic year or term. The claimant must have worked at least one day as a substitute in order for the provisions of G.S. 96-8 (10)e to apply. A claimant who has never worked as a substitute should not be held ineligible under the terms of this provision solely because he is on the list of substitutes to be called. A substitute school employee who has no payroll attachment during the benefit week because he has been separated from employment must have his qualification for benefits

determined pursuant to G.S. 96-14.

A permanent full-time substitute school employee, while not subject to G.S. 96-8(10)e must show that he is unemployed pursuant to the remaining provisions of G.S. 96-8(10). For example, a permanent full-time substitute teacher who files for benefits during a week within an academic year or term must show that he worked less than three customarily scheduled full-time days during the benefit week. Pursuant to G.S. 96-13(b)(1), a permanent full-time substitute school employee who files for benefits for any week during the period between two academic years or terms is not eligible for benefits if he has a reasonable assurance of returning to work in the second academic year or term. A permanent full-time substitute school employee who has no payroll attachment during the benefit week because he has been separated from employment must have his qualification for benefits determined pursuant to G.S. 96-14.

### **E. Adjudication Procedures for Educational Employees**

If an employee of an educational institution or agency as described in A., B., or C., above wishes to file a claim between school terms, proceed as follows.

1. 1. Take the initial claim in the usual manner.
2. 2. If the employer returns the request for separation information timely, conduct a fact finding interview and adjudicate the claim in accordance with the employer's separation information (which would normally indicate any return to work agreement).
3. 3. If the employer does not return the request for separation information timely, conduct a fact finding interview and adjudicate the claim in accordance with the information obtained in the fact finding interview.
4. 4. Process any separation or availability issue discovered during fact finding in accordance with the instructions in Chapter 3 of this manual for setting, referring, and resolving separation and availability issues.

**Note:** *In this situation the employer is an interested party and should be mailed a copy of any determination.*

### **6.10 Students**

A student who is attending school on a full-time basis is not automatically ineligible for unemployment insurance simply because of school attendance. A student's availability for work is determined in the same manner as a non-student's availability.

Any unemployed individual, previously engaged in full-time employment concurrent with school attendance, who continues to be available for work during the hours of that previous employment, and who is otherwise eligible, cannot be denied benefits because of school enrollment or attendance.

### **6.11 Receipt of Other Benefits**

The following paragraphs explain how the receipt of other benefits affects an individual's eligibility for unemployment insurance.

## A. Unemployment Insurance

Under North Carolina law, an individual is not eligible for unemployment insurance during any period that he is receiving unemployment benefits under another state or federal law, including Railroad Retirement benefits.

## B. Retirement Pensions or Benefits

Section 96-14(9) of the Employment Security Law requires that the amount of unemployment compensation payable to an individual for any week during which the individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement, or retired pay, annuity, or other payment which is reasonably attributable to such week, provided that such payment is under a plan maintained (or contributed to) by a base period or chargeable employer.

Since the law specifies that the reduction in unemployment compensation must occur for retirement payments based on the previous work of such individual, the reduction applies only to retirement benefits paid to the person who actually earned these benefits. It does not apply, for example, to a survivor's, widows, or widower's benefit that is not based on the work of the survivor.

Likewise, temporary disability insurance payments and workmen's compensation (including Black Lung benefits), which are not payable as retirement or pension benefits, are not deductible.

While an exhaustive list of deductible payments is not available, payments provided for under the plans or programs listed below are subject to the pension offset requirements:

- ⌚ State and local government pensions of all types, including disability pensions both short term and long term; ⌚ Federal Civil Service pensions, including disability pensions; ⌚ Private for-profit employer pensions; ⌚ Non-profit employer pensions; ⌚ Military retirement pensions and disability retirement pensions received from the branch of military service in which the individual served (**disability payments from the Veterans Administration are not deductible**); ⌚ Railroad Retirement annuities;
- ⌚ Benefits derived from Individual Retirement Accounts; ⌚ Benefits based on Keogh plans; and, *in some instances*, ⌚ "Rollover" of distributions from a qualified trust into an eligible retirement fund. (**If the "rollover", or any part of it, is subject to Federal income taxes, then that amount is considered reportable income. In such situations, any unemployment compensation must be reduced by the amount of the retirement payment that is based on the previous work of the individual. If the "rollover" is not subject to Federal income tax, it is not a payment for retirement purposes; it is simply a change with respect to the retirement plan under which the accounts are maintained and no**

**reduction of unemployment benefits is to be made).**

**Note:** *The benefits listed above are deductible only if the base period employer(s) contributed in whole or part to the plan on the individual's behalf. When one company is a successor to the company who contributed to the plan the pension is reportable if the successor is a chargeable employer whether or not the successor contributed to the actual plan from which the pension is being paid.*

Treat ***lump-sum retirement payments*** which are attributable in whole or in part to a base period employer as follows.

- ⌚ If either the claimant or the employer specifies a time period which the retirement payment covers, prorate the payment over that period.
- ⌚ If neither the claimant nor the employer specifies a time period which the payment covers, consider the payment as a pension for the week in which it was received.

## **6.12 Special Separation Issues**

### **A. Leaving Work Due to a Disability or Health Reason**

In G.S. 96-14(1) the health leaving provision includes situations where the claimant leaves work due to the disability or health condition of the claimant's minor child, aged or disabled parent or a disabled member of the claimant's immediate family. G.S. 96-8(27) defines 'immediate family'. The health condition or disability must be sufficient to justify the claimant's leaving and prevent the claimant from doing any alternative work offered by the employer. In addition, the claimant must provide the employer with notice of the family member's health condition or disability at a reasonable time prior to leaving employment.

### **B. Leaving Work to Accompany Spouse**

In G.S. 96-14 (1d) it is set forth that a claimant who left work to accompany a spouse to a new place of employment too far removed from their place of employment to allow them a reasonable commute to work will have a time certain disqualification of two (2) weeks imposed. The claimant who leaves work to accompany their spouse to a new place of residence because the spouse has been reassigned from one military assignment to another will not be disqualified from receipt of benefits due to such separation from work. If the claimant presents a copy of the spouse's military transfer orders, no issue should be set concerning the claimant's separation. A comment should be entered using the Y1 data entry screen as to why no issue was set.

### **C. Leaving Work due to Domestic Violence**

G.S. 96-14(1f) provides that a claimant who is discharged or leaves work due to domestic violence, sexual offense, or stalking shall not be disqualified for benefits. In addition, claimant who are discharged or left work after having been granted program status pursuant to G.S. 15C-4 (which establishes an address confidentiality program for victims of domestic violence, sexual offense or stalking) are not disqualified for benefits. Evidence of domestic violence, sexual offense or stalking may include: (i) law enforcement, court, or federal agency



records or files; (ii) documentation from a domestic violence or sexual assault program if the claimant is alleged to be a victim of domestic violence or sexual assault; and (iii) documentation from a religious, medical, or other professional from whom the claimant has sought assistance in dealing with the alleged domestic violence, sexual abuse, or stalking.

#### **D. Leaving Work due to Undue Family Hardship**

Undue family hardship arises when an individual is unable to accept work on a particular shift because the individual cannot obtain (1) child care during the shift for a minor child under age 14 in legally recognized custody of the individual, or (2) elder care during the shift for an aged or disabled parent of the individual. For the purposes of this situation 'work' is defined as any bona fide permanent employment the acceptance of which would not result in undue family hardship as defined in G.S. 96-8(10a). When preparing fact finding reports in cases of undue family hardship, fact finders must determine and document (1) the age of the minor child and

(2) which party initiated the shift change. Benefits are payable under the undue family hardship provision only if the employer initiated the shift change.

### **6.13 Issue Detection**

While issues are normally discovered during initial or reopened claim interviews or during eligibility review interviews, they may be revealed at any time during a claim series. Information received from a claimant, a former or potential employer, or a private citizen may also uncover an issue. Section 96-15(2) states in part "...no question or issue may be raised or presented by the Commission as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits." The 45 day rule does not apply when fraudulent filing is involved.

The language of the statute cited above clearly recognizes that an issue "occurs" at the point in time that an event happens. The event which gives rise to an issue does not "occur" when it is discovered by an agency employee or when referral results are reconciled. The 45 day period begins on the Sunday of the week following the event itself.

**Note:** There is one exception to the 45 working day rule for raising issues. This exception occurs when an employer has returned a timely "Request for Separation Information" that raised an issue, but the agency, for some reason, failed to set the issue. In this situation, staff should set the issue as soon as it is discovered – even if more than 45 working days have passed.

Any separated individual whose stated reason for separation raises a potential issue must complete the appropriate fact finding report at the time a new or additional claim is filed. Present the fact finding report to the claimant; tell him which section(s) to complete, and instruct him to return the form before leaving the office if the claim is filed in person. If the claim is filed via telephone the consultant should complete the fact finding form as a part of the claims taking process. Briefly review the fact

finding form to ensure that the claimant has clearly and completely answered the pertinent questions and that the information provided is sufficient for proper adjudication of the issue.

Staff members who conduct fact finding interviews are responsible for in-depth examination of the claimant's responses on the fact finding report and completion of Form NCUI 500S, *Fact Finding Report Supplement*, (claimant's response to timely employer separation information, any additional information, interviewer's comments, etc.).

Issues may also be detected during routine processing of continued claims filed by telephone or mail. The Benefit Payment System automatically sets an issue when a claimant responds inappropriately to one of the questions on the weekly certification. Telephone claimants are verbally instructed to contact the agency to resolve the issue. Mail claimants receive a written notice to contact the agency.

**Note:** The 'issue detection date', a required data element on selected Benefit Payment System data entry screens, has no relationship to the 45 working day period for raising an issue. Section 96-15(b)(2) of the Employment Security Law determines whether an issue was raised timely. The Benefit Payment System uses the 'issue detection date' to calculate the time required by the agency to adjudicate an issue that was raised timely.

#### **6.14 Issue Detection Dates**

The U.S. Department of Labor provides the definition of issue detection date as "the earliest date the agency, including organizational units such as BAM and BPC is in possession of information indicating the existence of a non-monetary issue."

For new, additional, and reopened claims, the issue detection date is the date the new, additional, or reopened claim is filed. If no issue exists at the time a claim is filed but information is later received that presents an issue, then the issue detection date is the date this information is received by the agency.

The exception to the above is a case where the claimant fails to file a timely weekly certification and the State has a policy of waiting for a week to be claimed prior to making a determination. In such cases, the detection date for the original unresolved issue(s) is the date the claimant subsequently files an additional or reopened claim.

For issues set by weekly certifications filed by VRU or internet, the issue detection date is the next business day (the earliest date that the agency was aware of the issue). For issues set by weekly certification filing by mail or in-person in an office of the Commission, the issue detection date is the date the claim was received by the agency.

#### **6.15 Posting Issues to the Benefit Payment System**

Unresolved issues prevent payment of benefits. ***If monetary eligibility has been established and payment of benefits has begun, do not enter a detected issue***

***into the Benefit Payment System until a written determination is rendered except as stated in section 6.13.*** Issues detected after benefit payments have begun are set and resolved when Screen C1 is used to enter the non-monetary determination into the Benefit Payment System.

If monetary eligibility has not been established or benefits have been denied by a prior determination or decision, additional issues may be set when they are detected by entering a C3 transaction into the system. Multiple issues may be set the same day if necessary.

**Note:** Staff are reminded that C1 transactions process prior to B1 (Initial Claim) transactions to facilitate resolution of issues on prior benefit years and to end indefinite ineligibility rulings (when the issue does not apply to the new claim being filed). Failure to resolve such issue(s) results in issues and/or indefinite ineligibility rulings being inappropriately carried forward to a new benefit year.

#### **A. Issues-Created/Carried Forward Report**

During each Benefit Payment System update, each new unresolved issue is added to an ACTIVE ISSUE FOLLOW-UP file.

- On the mainframe under the miscellaneous (m) menu there is an option ES40. Under that selection is a selection entitled 'Issues-Created/Carried Forward Report'. If the 'Issued-Created/Carried Forward Report' selection is chosen, issues established the prior day are listed by cost center (local office number). By changing the date, up to the prior four (4) days of information can be selected for viewing.

- On the agency intranet site that is a listing entitled "UI Active Issues Report". When this option is selected all active issues (those not yet resolved) are listed per the criteria selection that is chosen. That file is updated once a week in the Wednesday night update. Any issues that have been resolved or added since the prior update are either be deleted or added to the listing as appropriate.

#### **BPS Data Entry Screen References**

C1 – Non-monetary Determination C3 - Establish Issue or Pension Amounts

#### **6.16 Scheduling Fact Finding Interviews**

Consultants are permitted to conduct fact finding interviews by phone or in person. While telephone interviews tend to be more impromptu, factors to be considered when scheduling fact finding interviews (by telephone or in person) include the time needed for the interview and the timeliness of issuance of the determination. The number and type of issue will be the most important factors to consider when determining the length of time the interview might take. While separation issues tend to take longer some issues such as self-employment or controlled substance issues could take a very long time in order to complete a quality fact finding.

The Federal timeliness issue must also be taken into consideration. Separation issues must be adjudicated within 21 days of the 'issue detection date'. Suitable

work, eligibility, and able and available issues must be adjudicated within 14 days of the 'issue detection date'. For time lapse purposes, the waiting period week is considered a compensable week.

## **A. Separation Issues**

Form NCUI 500AB, *Notice of Claim and Request for Separation Information*, is mailed to the last employer each time a new or additional claim is filed. The employer's response is due in the local office within 15 calendar days (count begins the day after the form was mailed). Date stamp the returned form; retain the envelope, if there is one. Access Screen B7 and enter the employer's separation information into the Benefit Payment System regardless of whether there is an issue.

If a separation issue is detected when a new or reopened claim is filed by telephone or in person, conduct the fact finding interview and complete the appropriate fact finding form(s) at that time. Advise the claimant that he will be contacted by telephone upon receipt of the employer's response to the request for separation information to obtain a rebuttal statement if the employer's response provides new and/or different information.

If a separation issue is first detected when the employer returns the requested separation information, telephone the claimant to advise them of the issue and conduct a fact finding interview. If attempts to contact the claimant by telephone are unsuccessful, generate a call-in notice within one workday. The call-in notice must state the reason the claimant is being required to contact the consultant, the deadline for contacting the consultant, and the consequences of failure to contact the consultant.

## **B. Non-separation Issues**

If possible, conduct fact finding interviews for non-separation issues (suitable work, eligibility, able and available) at the time of detection **provided** the week during which the issue first existed has already been claimed or can be keyed by a consultant using a Z9 transaction. If the claim cannot be filed because the week in question has not ended, schedule the fact finding interview for the first available appointment after the week has ended.

**Note:** *For a non-monetary determination to be valid, the claimant must have the opportunity to furnish facts relating to the disqualifying information. Neither a call-in card mailed to the claimant asking him to come in without a specific reason, nor an unsuccessful attempt to contact the claimant by telephone meets this requirement. At a minimum, the claimant must be advised (1) that the agency has information which will be used to make an eligibility determination, (2) where and how this information was obtained, and (3) if the claimant does not contact the consultant, the disqualifying information must be mailed or a voice message left with instructions on how to return a response.*

## **BPS Data Entry Screen References**

B7 - Employer Separation Information    Z9 - Pay order Certification

### 6.17 Conducting the Fact Finding Interview

Trained staff, designated as fact finders, are responsible for conducting fact finding interviews on all detected issues. While claimants may complete fact finding report(s) on their own, fact finders must (1) ensure that the claimant's information is legible and understandable; (2) ask the claimant appropriate questions to obtain needed information; (3) clearly document all pertinent information for each issue; (4) attempt to get an explanation of all contradictions and inconsistencies; and (5) ensure that the claimant provides a specific response (rebuttal) to each employer allegation submitted on Form NCUI 500AB.

**Note:** *Fact finding interviews may be conducted by telephone or in person, but never in group sessions.*

Record the information obtained during the interview on the appropriate fact finding form. The issue under investigation determines which report to use. Some of the forms are:

- ⌚ Form NCUI 500B, Left Work Fact Finding Report
- ⌚ Form NCUI 500C, Discharge Fact Finding Report
- ⌚ Form NCUI 500D, Suitable Work Fact Finding Report
- ⌚ Form NCUI 500E, Able and Available Fact Finding Report
- ⌚ Form NCUI 500F, Miscellaneous Issues Fact Finding Report
- ⌚ Form NCUI 500S, Fact Finding Report Supplement

### BPS Data Screen References

01	-	Claimant	Profile	Data	07	-	Benefit	Payment	History
06	-	Monetary	Determination		Z9	-	Pay	order	Certification

### 6.18 Referring Fact Finding Files for Adjudication

Prior to forwarding the fact finding file to the adjudicator, access Screen 01 or 06 to determine whether the claimant is monetarily eligible; access Screen 07 to see whether the claim has been continued. If the claimant is monetarily ineligible and a protest has been filed and a week has been claimed, maintain the file until the claim establishes monetarily and then forward it for adjudication.

If the claimant is not monetarily eligible and does not wish to file a wage protest, maintain the fact finding in the claim record file.

Federal timeliness standards require that separation determination be issued within 21 days of the date the issue was detected. For non-separation determinations, the determination must be issued within 14 days of the date the issue was detected. To

meet these standards the following procedure should be followed.

Whenever possible, prepare the separation fact finding file and route it to the appropriate adjudicator on the same day the separation information is received from the employer. Route the separation fact-finding file for adjudication so that the file will be received in the Central Office Adjudication Unit at least two (2) days before the timeliness expiration date. The preferred method of routing the file is to send the original documents via the US Postal Service. If the file can not be sent via the US Postal Service such that it would be received two (2) days prior to the timeliness expiration date it should be faxed to the Central Office Adjudication Unit if the timeliness expiration date has not passed. **Do Not** fax files that have passed the timeliness expiration date.

Send files that have passed the timeliness expiration date via the US Postal Service. The fact finding file must include the original fact finding report(s); a copy of Form NCUI 500, *Initial Claim for Benefits*; and any documents the claimant presented to prove his case. If the issue is separation, include Form NCUI 500AB and its envelope, if returned, in the file and any rebuttal (NCUI 500S) from the claimant.

If Form NCUI 500AB is received after the fact finding file has already been referred to an adjudicator, record the date of referral and the adjudicator's docket number (if known) on Form NCUI 500AB and immediately route the form to the appropriate adjudicator.

The Central Office Adjudication Unit is responsible for potentially disqualifying issues (separation, suitable work, Commission Approved Training). Fact findings on these issues are to be routed to the Central Office Adjudication Unit.

#### **6.19 System Resolution of Issues Where No Weekly Certification is Filed**

System resolution of open issues that are applicable to claims for which no week has been claimed are handled as follows. The program to detect open issues with no weeks claimed and the issue is over 35 days old is run on Wednesday and Thursday of each week.

During the Wednesday run, issues to be systematically resolved are identified and the appropriate (C1) non-monetary transactions are created. During the Thursday run, the previously created C1 non-monetary transactions are processed with a docket number of "SRI-NOWK" (system resolved issue—no week) and a comment is put on the Claimant Comment (18) screen.

Most open issues will be resolved systematically if each of the following criteria is met:

1. 1. The issue was established 35 or more days prior to the program run date.
2. 2. The claim series (whether monetarily eligible or ineligible) to which the open issue is applicable was not continued.
3. 3. No pending week (on any claim series) will be released for payment.

Such system resolved issues are not a valid adjudication of an issue and does not generate a written non-monetary determination. System resolution is an administrative action to close issues for which no week is claimed. Program edits prevent setting an appeal to a system resolved issue and allow a C1—non-monetary determination transaction to overwrite the system resolution on Screen 02 and the current and initial lines on screen 20.

If a week is claimed late or the claim series is reopened without intervening employment (NIE) and a week is claimed, the fact finding file must be assembled and routed for adjudication. When the issue is adjudicated, the Adjudicator will overwrite the system resolution with entry of a C1 transaction.

**Note:** If the issue was a non-separation issue and it still exists it must be routed for adjudication. If it no longer exists then it can be resolved as a dead issue (issue code 98 and resolution code 4).

If the claim is reopened with intervening employment (AIC), staff must enter a C1 transaction to end the disqualification end date with the Saturday date prior to the effective date of the reopened claim. When entering a transaction to end the SRI-NOWK ineligibility/disqualification, Resolution code must = ED (end ineligibility/disqualification of system resolved issue) and Docket # must = SRI-ED. No other resolution code or docket number will be accepted unless a valid adjudication of the issue is being posted.

The 18 screen comment data entry transaction generated by the SRI-NOWK program will read as follows: Issue ID ##, Issue ## systematically resolved on MMDDYYYY as ineligible/disqualified through the applicable claim series or benefit year because no week was claimed.

Issues carried forward to a new benefit year are also systematically resolved if the four criteria listed above are met. Screen 02 will display RESOLUTION CD 98, Status CD 4, and DOCKET SRI\_NOWK. The following comment will be displayed on Screen 18. Issue ID ##, Issue ## systematically resolved on MMDDYYYY as 98/4 because no week claimed and issue not applicable to benefit year.

## **6.20 Local Office Adjudication**

The office adjudicator is responsible for adjudicating issues of eligibility and able and available issues. Their duties include the following:

### **A. Review Fact Finding File**

Review the fact finding file to ensure that all information needed to fairly and accurately dispose of each issue is documented. Attempt to obtain any missing information. Document any additional information secured and attach it to the fact finding file. It is inappropriate to raise an able and available issue that can be, or has been, removed as a result of routine claims questioning. If a potential issue is

removed as a result of routine claims questioning, the information provided by the claimant that removed the issue must be documented by entering comments on the mainframe claim record (use screen Y1).

## **B. Issue of Local Office Determination**

Carefully consider and evaluate all pertinent information available, including applicable law(s), precedent decisions, Commission regulations, and agency policies and procedures before rendering a determination.

***Note:** Eligibility and able and available issues are to be adjudicated even if the claimant fails to report for his scheduled fact finding interview. If the week(s) in which the issue first existed is not claimed the system resolution of the issue as explained in section 6.19 of this manual takes place.*

Whether eligible or ineligible, prepare a system-generated non-monetary determination. Either present or mail a copy of the determination and a copy of Form NCUI 568, *Procedures for Appealing an Adjudicator's Determination*, to each interested party. Access Screen C1 and enter the determination into the Benefit Payment System.

## **BPS Data Entry Screen References**

C1 - Nonmonetary Determination

## **C. Determine Appeals Expiration Date**

The appeal rights expiration date entered on an office determination should be the 15<sup>th</sup> calendar day after the mailing date. If the 15<sup>th</sup> calendar day is a weekend, holiday or one of the special days listed below, enter the date of the next workday.

### **Holidays and Special Days**

January 1~New Year's Day  
3rd Monday, January ~ Martin Luther King, Jr. ~ Birthday  
January 19 ~ Robert E. Lee ~ Birthday  
3rd Monday, February ~ Washington's ~ Birthday  
March 25 ~ Greek Independence Day  
April 12 ~ Anniversary Signing of Halifax Resolves  
Good Friday  
May 10 ~ Confederate Memorial Day  
May 20 ~ Anniversary Mecklenburg Declaration of Independence  
Last Monday, May ~ Memorial Day  
July 4 ~ Independence Day  
1st Monday, September ~ Labor Day  
2nd Monday, October ~ Columbus Day  
Yom Kippur  
November 11 ~ Veterans Day



Tuesday after the 1st Monday in November in years of a general election  
4th Thursday, November ~ Thanksgiving Day  
December 25 ~ Christmas Day

**For example:** The determination is mailed on Friday, May 14, 2004. Fifteen calendar days end on Saturday, May 29, 2004. Since May 29, 2004 is a weekend (non business day for the Agency) and Monday, May 31, 2004 is Memorial Day, the determination appeal rights expire on Tuesday, June 1, 2004.

#### **D. Maintain Local Office/Call Center Adjudication Files**

Retain office adjudication files (the original fact finding report and all documents presented by interested parties) for one year after the date the determination was mailed. Office managers may use any suitable storage method as long as the files are kept in docket number sequence and not integrated with any other unemployment insurance files.

### **6.21 Central Office Adjudication**

Duties of central office adjudication staff include the following.

#### **A. Acknowledge Receipt of Fact Finding File**

Fact finding files received in the central office Adjudication Unit are date stamped and assigned for adjudication as promptly as the existing workload permits. If a case cannot be adjudicated on the day it is received, a C7 transaction (Date Fact Finding Report Received) or 18 screen comment is entered into the Benefit Payment System to acknowledge receipt of the file. If the issue is adjudicated on the day it is received, the resolution of the issue acknowledges receipt of the file.

#### **BPS Data Entry Screen References**

C7	-	Date	Fact	Finding	Report	Received
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#### **B. Issue Determination by Adjudicator**

The Central Office adjudicator reviews the fact finding file to ensure that all information needed to fairly and accurately dispose of the issue(s) is contained in the file. If additional information or employer rebuttal is required, the adjudicator makes a reasonable attempt to obtain the needed information or employer rebuttal. Efforts to obtain information or rebuttal are documented on NCUI 500S (Fact Finding Report Supplement) and attached to the fact finding file. The Central Office adjudicator prepares a written determination and enters the resolution into the Benefit Payment System. The results and text of the determination, which can be viewed on Screens 02R and 02R1, may be shared with any interested party who inquires about the outcome of the case.

## BPS Data Inquiry Screen References

02R – Non-monetary Determination 02R1 – Non-monetary Determination

### **C. Central Office Adjudication Files**

Central Office adjudication files are kept on file for at least 120 days after the determination was issued.

### **6.22 Right of Appeal**

Any interested party adversely affected by a non-monetary determination or an appeals decision may obtain information about an appeal from either Form NCUI 568, *Procedures for Appealing an Adjudicator's Determination*, or Form NCUI 569, *Procedures for Appealing Decisions by the Appeals Referee and the Employment Security Commission*, (whichever is appropriate). These pamphlets are mailed to each interested party along with the determination or decision. Both of these forms explain how to file an appeal and provide the claimant with detailed information about the appeals process.

Provide assistance to interested parties without either encouraging or discouraging an appeal. ***Do not offer advice on the grounds for filing an appeal or on the merits of a case. Never refuse to accept or process an appeal for any reason, including timeliness.***

When accepting an appeal, review the appellant's statement of appeal to ensure that it includes a clear statement of intent to appeal, the docket number of the case, and the claimant's Social Security number.

An appeal may be entered by mail, by fax, in person at the local office or sending it via email to the [esc.public.appeals@ncmail.net](mailto:esc.public.appeals@ncmail.net) mailbox.

### **6.23 Timeliness of Appeals**

Appeal rights for non-monetary determinations (both separation and non-separation issues) and lower authority appeal decisions expire 15 calendar days after the date the determination/decision was mailed or presented to interested parties.

The date an appeal is filed is normally the date it is received in an office of the Commission. Evidence of the date filed is the date noted or stamped on the document by any office of the Commission if received in person. It is the postmark date if sent by mail. If the postmark is a meter postage mark then the date actually received by the Commission will be the date received. If received by email then the date the email is actually received will be the filed date. If received by fax then the date printed on the receiving fax machine will be the date filed.

Never refuse to accept an appeal or encourage an interested party not to appeal

simply because the appeal expiration date has passed. The department responsible for hearing an appeal is responsible for determining whether an appeal is timely.

#### **6.24 Lower Authority Appeals**

Appeals from determinations by first level adjudicators are heard by Appeals Referees or Special Hearing Officers who only accept evidence presented under oath. The Appeals Referee or Special Hearing Officer reconciles discrepancies between statements made by the parties during the fact finding process and testimony offered during the appeals hearing. Consequently, staff may be called upon to testify at appeals hearings. In cases involving suitable work, eligibility, or ability and availability for work, the Appeals Referee may ask local office staff to offer evidence concerning local labor market conditions. Whenever possible, the Appeals Referee will notify the office manager, or other appropriate person, at least two days in advance of the hearing date that testimony from an office staff person will be needed.

A paper copy of the lower authority appeals decision is routed to the office where the claim is assigned.

#### **6.25 Higher Authority Appeals**

Higher authority appeals (appeals of decisions by Appeals Referees and Special Hearing Officers) may be reviewed by (1) the full Commission, (2) the Chairman, or (3) a Special Deputy Commissioner appointed by the Chairman. The reviewing party examines all the evidence presented during the lower authority appeals hearing to ensure that (1) the findings were based upon competent and credible evidence in the record, and (2) that the findings support the conclusion. While additional evidence is not accepted at the higher authority appeal level, interested parties may, upon request, be allowed to present oral arguments.

The reviewing party may affirm the lower authority decision, reverse the lower authority decision, or remand the case back to the lower authority to obtain additional evidence or to render a new decision. If the Appealing party does not submit a timely and clear statement of the reasons for the appeal, The Commission may dismiss the appeal.

**Note:** *When the Commission vacates and remands a lower level decision, that decision is not withdrawn. It remains in effect until a new lower level appeal's decision or a Commission decision is issued. Unless otherwise directed by a Commission decision, the lower level appeal's decision controls payment of benefits at all times.*

A paper copy of each Commission decision is mailed to the local office.

#### **6.26 Party Reports Non-Receipt of Determination**

A copy of the non-monetary determination or appeals decision is mailed to each interested party (claimant and/or employer or their legal representative) by the work unit that rendered the determination/decision.

If an interested party reports that he did not receive a copy of an Office Determination, take the following actions:

1. 1. enter a note to that effect in the fact finding/adjudication file;
2. 2. advise the party of the results of the determination;
3. 3. send the party a photocopy of the determination that is marked with the date that it was provided; and,
4. 4. accept and process an appeal, if there is one, in the customary manner. Keep in mind that the appealing party does not actually have to have a copy of the decision to appeal it.

If an interested party reports that he did not receive a copy of a "Determination By Adjudicator", an Appeals Decision, or a Commission Decision, advise the party of the results of the determination or decision. Share the text with the interested party, but do **not** provide a copy of that text. Advise the party that a copy of the determination or decision can be obtained by contacting the appropriate Central Office unit or department at the telephone number listed below. The individual who processes this request will document the party's allegation for use in determining the timeliness of any possible appeal.

"Determinations By Adjudicator" - Adjudication Unit - (919) 733-7474  
Appeals Decisions - Appeals Department - (919) 733-4887  
Commission Decisions - Agency Legal Department - (919) 733-4636

## **6.27 Processing Appeals**

Appeals to Office Determinations, "Determinations By Adjudicator", and Appeals Decisions may be filed either in person, by mail, by fax or by email. Appeals to Commission Decisions must be filed in Superior Court. Appeals may be accepted by any representative of the Commission in any office of the Commission. Each appeal, including the envelope if mailed, must be date stamped upon receipt and routed to the appropriate central office unit on the day it is received. Form UIC 40, *Receipt-Transmittal of Appeal*, must accompany each appeal. Other processing requirements vary depending upon the method by which the appeal was filed, and the type of determination or decision appealed.

### **A. Appeals to First Level Non-Separation issues**

Complete Form UIC 40 for each appeal to non-separation determination no matter the method used to file the appeal. The individual accepting the appeal must complete the Receipt Certification portion of the UIC 40. The adjudicator, or his designee, must assemble the full fact finding file, complete the Transmittal Certification, and route all documents to the central office Adjudication Unit as quickly as possible. If the appeal is filed by mail, attach the statement of appeal and mailing envelope to Form UIC 40. If filed via fax or email, attach the fax or email to Form UIC 40. If the appeal is filed in person, review the appellant's statement of appeal to ensure that it includes a clear statement of the intent to appeal, the docket number of the case, and the Social Security

number of the claimant.

Appeals Unit staff will do the data entry necessary to acknowledge all appeals and enter them (Office Determinations, Determinations By Adjudicator and Commission Appeals) into the Benefit Payment System.

***Note:** Whenever an appeal to an Office Determination is filed or received in the Central Office it is routed to the Appeals Department. Appeals Department staff will contact the responsible office to request the fact finding file.*

## **B. Appeals to First Level Separation Issues or Appeals Decisions**

Date stamp (including the envelope, if mailed) appeals to "Determinations By Adjudicator" and Appeals Decisions filed or received in the local office. The grounds for appeal should be shown on any lower appeals authority decision that is appealed to the next level. The individual who accepts or receives the appeal must complete the Receipt Certification portion of Form UIC 40. If the appeal was mailed to the local office or call center, attach the statement of appeal **and** the mailing envelope to Form UIC 40. Route the appeal assembly to the central office unit that rendered the determination on the same day that the appeal is received.

## **C. Appealing Overpayment Determinations**

An adjudicator's determination that either disqualifies or holds a claimant ineligible for weeks for which the claimant has already received benefits creates an overpayment. In such instances, both a non-monetary determination and an overpayment determination are issued to the claimant. These separate determinations are normally mailed on the same date and each contains an explanation of the claimant's appeal rights. An overpayment determination may be issued when a revised monetary determination is issued which lowers the claimant's entitlement (WBA or duration) or the earnings allowance.

Many claimants who receive these two different determinations may become confused as to which determination they wish to appeal. Some claimants appeal both determinations, while others appeal only the overpayment determination. In the latter instance, the claimant has no possibility of success since the overpayment was created by an adjudicator's determination or revised monetary.

A claimant's appeal to an overpayment determination that resulted from an adjudicator's determination will be processed as an appeal to the adjudicator's determination. If a staff person is assisting the claimant with the filing of such an appeal, care must be taken to ensure that claimant's request to appeal the adjudicator's determination or ask for a waiver are clearly defined so as to not process the claimant's request improperly.

A claimant's appeal to an overpayment determination that resulted from a revised monetary determination will be processed as a waiver request.

## **6.28 Wavier Petitions**

Waivers requests are processed in accordance with Commission Regulation 20. Waiver requests are made by claimants who have become overpaid as a result of some change in a decision of claimant's eligibility for benefits. Such change can be the result of a revised monetary determination, issuance of a non-monetary determination or a change in earnings or pension amount that should be applied to a weekly certification. While waivers are taken using form UIC 40 the following differences between appeals and waivers should be noted.

- A. An appeal is recognizing that the appealing party disagrees with the decision that was made while a waiver request is indicating that the requesting party agrees with what caused the overpayment but does not feel they should be held responsible for making restitution of the overpaid amount.
- B. An interested party has 15 days to appeal while a timely waiver request can be made up to 10 days after a monetary or non-monetary determination that caused the overpayment becomes final. Therefore an appeal can be pursued and then if the claimant is overpaid after the final appeal becomes final, the claimant can then pursue a waiver. However, if a claimant pursues a waiver and is not successful he can not go back and pursue a timely appeal.
- C. Only the claimant or their legal representative may request a waiver. The waiver must be signed and dated.
- D. There is no requirement that the agency conduct a hearing on waiver requests. It is thus very important that the claimant be instructed to provide all information in support of his request at the time he makes a waiver request.
- E. Waiver requests are first sent to the Benefit Payment Control Unit. The decision is made by the Chairman's Designee. The designee can be any person the Chairman of the Commission chooses and is not required to be an agency hearing officer.
- F. The waiver decision is not appealable. If the waiver is denied based on it being an untimely request then the issue of timeliness is appealable.

## **6.29 Appeals Hearing Pending**

The following paragraphs contain information about procedures related to the scheduling of appeals hearings.

### **A. Scheduling of Appeals Hearings**

The Appeals Department attempts to schedule hearings before Appeals Referees or Special Hearing Officers within ten calendar days from the date the appeal is filed. Depending on factors such as workload and available staff, the hearing may not be held until several weeks later. Screens 02R and 02R1 display information about the scheduled hearing such as the type of hearing scheduled (in person or telephone), the date and time of the hearing, the name of the hearing officer assigned to hear the appeal, and if in person the local office where the hearing will be conducted. This information, which is available until the appeals decision is posted, may be provided to interested parties inquiring about a pending appeal.

### **B. Notice of Hearing Before an Appeals Referee or Special Hearing Officer**

The Appeals Department mails a notice of hearing to each interested party at their last known address. Notices of in-person hearings are mailed not less than ten days prior to the hearing date; notices of telephone hearings are mailed not less than 14 days. If hearing information does not appear on Screens 02R or 02R1 within ten days of the date the appeal was filed, the interested party or office staff can contact the Appeals Department at (919) 733-4887 to inquire about the status of the appeal.

### **C. Appeals Decision Pre-Notification**

The Appeals Pre-Notification program will make available to interested parties the anticipated results of an appeals hearing on the Agency website. Agency staff may access this information via the Intranet. The appeals decision pre-notification does not replace the official written appeals decision. If a party disagrees with pre-notification results they must wait until they receive the official written decision before entering an appeal.

Pre-notification results will normally be available on the Internet and Intranet for 90 days from the hearing date.

## **6.30 Commission Decision Pending**

Do not attempt to respond to inquiries regarding appeals before the Commission. Refer all inquiries to the agency's Legal Department at (919) 733-4636.

## **6.31 Referral of Possible Fraud**

Individuals who make false statements in order to receive unemployment benefits may be guilty of fraud. Report instances of suspected fraud (false statements or failure to report earnings) on Form UIC 78, *Request from Local Office for Investigation of Questionable Activity* and route it to the Benefit Payment Control Unit in the Central Office. A Fraud Investigator will explore the suspected fraud and take appropriate action.

## **6.32 Ineligibility Established by Prior Determination**

Determinations or decisions may rule a claimant ineligible for an indefinite period or specify further referral for adjudication if an issue continues to exist and there has been                      no                      intervening                      employment.

### **A. Indefinite Ineligibility**

If a *final* determination or decision holds a claimant ineligible for as long as a specific issue exists, and the claimant attempts to file a new, reopened, or continued claim, question the claimant closely to determine whether the condition still exists. If it does, explain to the claimant that the determination or decision has become final and that he will not be eligible to receive benefits until the condition is removed. If the claimant has removed the condition, document the pertinent facts using Screen Y1; then enter

a C2 transaction to end the indefinite ineligibility on the Saturday of the week the condition no longer existed for a majority of the week.

#### **B. Further Referral Ordered**

If a *final* determination or decision ordered referral of a specific issue if a claim was filed without intervening employment and the claimant attempts to file a new, reopened or continued claim, question the claimant closely to determine whether the issue still exists. If the issue still exists, no action is necessary. If the condition has been removed, document the pertinent facts using Screen Y1; then enter a C2 transaction to end the indefinite ineligibility on the Saturday prior to the new or reopened claim.

#### **BPS Data Screen References**

02R – Non-monetary Determination C2 – Non-monetary Redetermination  
02R1 – Non-monetary Determination Y1 - Claimant Comment Data Entry

### **6.33 Removal of Disqualifications Less Than Two Years Old**

Indefinite disqualifications imposed under N.C.G.S. 96-14(1), (2), (2B), (3), (4), or (6A) are automatically removed two years after the beginning date of the disqualification. The ending date of a permanent disqualification is automatically computed when a C1 or C2 transaction is processed. N.C.G.S. 96-14(10) provides for early removal of a permanent disqualification if a claimant has returned to work for at least five (5) weeks, was paid cumulative wages of at least ten (10) times his *new* weekly benefit amount, has become unemployed through no fault of his own, and meets the availability requirements of the Law.

Complete Form NCUI 564, *Certification to Remove Indefinite Disqualification*, for each claimant who meets the conditions for early removal of an indefinite disqualification. Designated staff may approve and remove indefinite disqualifications.

Time certain (including substantial fault) disqualifications **cannot** be removed; the imposed penalty must be served. It should be noted that a time certain penalty also reduces the total benefits available to a claimant during a benefit year.

**Note:** For purposes of removing a disqualification, a claimant must have at least one period of bona fide permanent employment of more than thirty (30) days duration, whether or not work was performed on each day. Wages earned in self-employment cannot be used to remove a disqualification. If the bona fide employment requirement can be met, wages from employment of thirty (30) days or less may be included to meet the "ten times test". If the disqualification carries forward to a new benefit year, earnings must be ten (10) times the weekly benefit amount established under the new claim.



### **A. Claimants Who Fail to Remove an Indefinite Disqualification.**

An appealable non-monetary determination must be issued to any claimant who is unable to provide sufficient documentation to remove an indefinite disqualification. If the claimant fails to meet the requirements to remove an indefinite disqualification staff should access screen

C1 and enter the following data:

Issue ID = 00	Issue Code = DR
Issue Status = 2	Resolution Code = DR
Count? = N	Start Date = start date of the disqualifying issue
End Date = 9's	Time Lapse Date = a valid date (to access the text)

The system will use this information to generate a written determination that is to be presented to the claimant.

**Note:** The DR code will carry forward to a new benefit year when the END DATE of the disqualification overlaps the new BYB date.

Do not set another DR code if a claimant who has previously failed to remove an indefinite disqualification returns at some future date and is still unable to remove that disqualification.

If the information provided by the claimant is sufficient to remove an indefinite disqualification access screen C2 and enter resolution code 29 to both the disqualifying issue and the DR issue.

### **BPS Data Entry Screen References**

C1 – Non-monetary Determination C2 – Non-monetary Re-determination

### **6.34 Waiting Period Credit When an Eligible Decision Is Reversed**

If an eligible determination or decision is reversed, any benefits paid prior to the reversal cannot be considered an overpayment. If the reversing decision includes the waiting period week in the disqualification or ineligibility, the claimant must serve a new waiting period week if the claim series is continued or reopened.

## **Chapter 7**

## **Employer Electronic Filing**

### **7.1 Introduction**

Employers may use magnetic tape, diskettes, or the agency's web site to file claims for benefits. The employer can file temporary layoff claims or mass total layoff claims in this manner. Claims filed in such a manner are submitted to and processed in the Central Office. Filing by magnetic tape is rare and will not be addressed in this section. If an employer has questions concerning any of the filing methods they should be told to contact the Central Office at 919-733-7294.

### **7.2 Filing Attached Claims Using Electronic Media**

Commission Regulation 9.11 governs the electronic filing of attached claims. An employer shall file unemployment insurance claims for attached workers within seven days of the week-ending date of the payroll week in which the employees worked less than full-time because full-time work was not available. By completing the Benefit Claim for Attached Worker, the employer certifies that the worker is still attached to the employer's payroll, but during the payroll week, worked less than 60% of his/her normal hours. Employers can file unemployment insurance claims for their workers who are on temporary layoff by tape, diskette, or the internet. Claims filed, regardless of the method used, must be submitted directly to the Benefits Department in the Central Office for processing.

Whenever an individual or group temporary layoff occurs, any employing unit that has 100 or more employees must file by an electronic method. The controlling factor is the total number of employees not the number of temporary layoff claims filed. Claims filed Monday through Friday (other than holidays) are processed nightly and benefit payments are issued to eligible claimants the following day. Those claimants receiving payment via direct deposit have payment issued the next bank business day. Claims filed on Saturday or Sunday via the internet is made a part of the Monday night update.

### **7.3 Filing Mass Layoff Totally Separated Claims using Electronic Media**

Employers have the capability of filing totally-separated, "lack of work" initial claims for their workers via the internet in much the same manner as attached claims. The employer may select one of two methods to file claims when a mass layoff occurs. They may file by data entry at the agency web site or by submitting an electronic file.

Several important things to advise employer's making inquiry about filing mass layoff totally separated claims are:

- Either the local ESC manager or the employer must advise the Central Office Benefits Department when a file is sent for processing, whether by internet or electronic file sent by diskette or as an e-mail attachment, since the file requires special

handling for it to be processed as totally separated claims rather than attached claims.

- The NCUI 500AB, notice to employer and request for separation information, is not sent to the employer on new claims. The employer will receive the NCUI 500AB on additional initial claims.

- For TSEF claims submitted via diskette or e-mail file attachment, the employer must complete a statement certifying that the individuals were separated due to lack of work, that the individuals have been asked to report any secondary job earnings, and that the sum of regular earnings and secondary job earnings have been recorded in the earnings

field of the TSEF file.

- ESC's WinFTL or TRACS software can be used to create the employer's electronic file or the employer can build the file according to specifications identical to the record layout requirements for attached claims.

- To avoid payment delays and unnecessary setting of late filing issues, it is critical that the employer's file be received in the Central Office no later than the morning of the last work day of the week following the employer's payroll week ending date.

- The employer must provide each affected employee with form NCUI 517-Z, Information about Unemployment Insurance for Totally Separated Workers.

- All exceptions to including a particular claimant in a mass layoff file are found in section 7.9 of this manual.

#### **7.4 Technical Information and Equipment Requirements**

The Employment Security Commission provides computer software and/or record layout to employers free of charge. Information concerning software and/or record layout is available to employers on the Business Services section of the agency web site.

Employers who use the claims filing software provided by the Commission do not have to submit test data before filing actual claims. The Commission provides load instructions and software at no cost to the employer. The Windows program (WINFTL) is written in Visual Basic and incorporates options for filing claims data by diskette or Internet. The program requires a 386 or higher IBM compatible PC running a Windows (3.1 or higher) operating system. If filing by Internet, the program works with both Netscape and Internet Explorer.

Updating the employee database file for each week of layoff can be accomplished with relative ease. Employees may be selected for updating by social security number, employee last name sequence, or assigned department.

Multiple employer account numbers and weeks may be reported on a single diskette. Claims data may be transmitted at any time by Internet. Data may be uploaded from a file created in a format prescribed by the agency or a file created by using agency software. Individual layoff data may also be keyed on-line at the agency web site. Claims data received before 8 PM is processed nightly, Sunday through Friday, and checks are mailed to eligible claimants the next workday.

Load Instructions and Temporary Layoff Claims Filing Record Layouts and Requirements are written in Microsoft Word 6.0 format. Temporary Layoff Claims

Filing Record Layouts and Requirements user guide is available for those employers who prefer to create their own database. This particular guide includes information on data to be submitted as well as the required format.

## 7.5 General Information

Employers using one of these electronic filing methods must ensure that claim data is submitted only for employees who are actually on layoff. Claims are not to be submitted for workers who are sick, out due to job related injuries or on vacation leave. In the case of attached claims filing employers should not file for workers who are no longer employed.

An employee is considered to be on temporary layoff when, due to a lack of work, they work or are paid for less than three customary, scheduled full-time work days. An employee whose work schedule is other than eight hours per day, 40 hours a week is considered to be on temporary layoff if they work or are paid for less than 60% of their normal work week. Pay for holidays and vacation days are counted and may cause workers to exceed the three day or 60% requirement.

A temporary layoff ends when an employee has no work or earnings for eight consecutive weeks. The employer should not submit a ninth electronically filed attached claim for such a worker. Instead, the employer should instruct the employee to file a totally separated claim if they wish to continue filing for benefits.

**Note:** An employer who has a definite return to work date for employees on temporary layoff may make a written request to the ESC office/call center manager to extend the temporary layoff beyond the prescribed eight consecutive weeks without earnings. The ESC office/call center manager is authorized to extend the period beyond eight weeks if the request is deemed to be reasonable.

As the electronic information is processed, it is matched against current records in the Benefit System. If the name does not match the name on file the claim will be held and the employer contacted to reconcile the situation. Addresses will be entered/updated in accordance with the file submitted by the employer. If no monetarily eligible current benefit year is found, the submission is processed as a new claim and a Wage Transcript and Monetary Determination is prepared and mailed to the claimant.

If the worker has excessive earnings (reported earnings equal to or greater than the weekly benefit amount plus the earnings allowance) in the first week of the claim series, a benefit year is established, but the claim cannot serve as the waiting period week. If the claimant wishes to protest the establishment of the claim it must be done in accordance with established agency procedure within the time limit allowed for protest of a monetary determination. In such instances, the waiting period week requirement is met by the first claim filed where the workers earnings are less than the ineligible amount.

A worker on temporary layoff, who fails to return to work when the employer calls

must be referred for adjudication on the issue of voluntarily leaving work.

## **7.6 Employer Responsibilities**

The employer is acting as an agent for the Commission when filing claims electronically. It is the employer's responsibility to provide accurate and complete information to both the worker and the Commission. Incomplete or inaccurate information can result in processing delays or improper payments.

Form NCUI 517, 'Information about Unemployment Insurance for Workers on Temporary Layoff' and NCUI 517z, 'Information about Unemployment Insurance for Totally Separated Workers' are both available on the agency web site. These forms explain the process and should be given to affected workers before the employer collects any claim information for the first week of unemployment that establishes a new benefit year.

Employers must question workers before claims data is submitted to ensure that they are eligible for benefits. Employers must question workers about the following items:

- Filed a claim or worked in another state?

All workers must be asked if they have established an unemployment insurance claim in another state within the last year, or if they worked in another state in the past 18 months. If such a claim has been filed the employer should not submit the claim electronically to North Carolina. If a claim has been filed in another state within the last year the claimant should be advised to contact that state and determine how to file the attached claim. If no claim has been filed but claimant has worked in another state in the past 18 months then the employer should provide a paper NCUI 501 to the worker and advise them to take it to a local ESC office to file.

- ☐ • Earnings from Secondary job or odd-job earnings?
  - ☐ Each worker must be asked if they have earnings from secondary or odd-job work that was earned during the week of the layoff. The sum of these earnings and those from the filing employer must be added together and reported as the worker's total earnings on the attached claim. The employer should keep the amount of earnings and the name of the secondary employer on file for audit purposes. The employer should document the date and who informed the worker(s) of this filing requirement and ensure that workers realize the scheduled time they must report secondary or odd-job earnings for any further weeks the employer may be filing attached claims.
- ☐ • Retirement Pension?
  - ☐ Each worker must be asked about any retirement pension they are receiving which is based on the worker's own prior employment during the past 18 months. If the worker is receiving such retirement the worker must be instructed to visit the local ESC office to complete Form NCUI 563R.
- ☐ • Worker's address?
  - ☐ Most attached claims are paid by paper check and mailed to the claimant; therefore, an accurate address is extremely important. Other correspondence with the claimant, including the Wage Transcript and Monetary Determination and the 1099 are mailed to

the claimant. Workers many times do not apprise the employer of a new address when they relocate; therefore, it is important that the employer update their employee address file prior to filing unemployment claims (attached or mass layoff filings). The address submitted electronically by the employer will automatically update the address on the Benefit System. No audit trail is made of such changes.

- Claimant's name?

If the name in the electronically filed claim does not match the name on file in the Benefit Payment System for that Social Security Number, the claim will be rejected. The Intrastate Unit in the Benefits Department will contact the employer upon receipt of the report that the claim was rejected and determine the cause of the problem and correct it. If the name change has taken place within the last year and since a claim has been filed, the employer should provide the attached claimant with a paper NCUI 501 which should be taken to the local ESC office to update the name on the Commission's records before the claim is processed. A claimant involved in a mass layoff should merely be advised to visit the office to file their claim and thus not be included in the employer submitted electronic file.

When contacted by an employer who discovers a reporting error after the data has been submitted electronically the staff member should advise the employer to submit corrections on letterhead via the US Postal Service or by fax to the Intrastate Unit in the Benefits Department. The letter should include the employer account number, the name of person making the request and their telephone number, the worker's name and social security number and clearly state what information was incorrect and the correct information.

## **7.7 Central Office Responsibilities**

Central Office staff may spot check electronic data for accuracy before an entire tape, diskette or internet filing is processed. If any discrepancy is found, the employer will be contacted about the action(s) necessary to resolve the problem.

If no discrepancies are found, electronically filed claims are normally processed on the date they are received. Form NCUI 550, Wage Transcript and Monetary Determination, is prepared and mailed to each claimant who establishes a new benefit year. Benefit payment is generated to eligible workers.

## **7.8 Protests, Revisions and Complaints**

All electronically filed claims are processed as regular UI claims. Form NCUI 517 and NCUI 517z explain the process for protesting a monetary determination.

The employer should advise an employee who contends that the wages shown on the Wage Transcript and Monetary Determination are incorrect to contact the Commission to protest the determination. Any complaints or questions concerning receipt of benefit payments or other documents not available through automated services should be referred to either the local ESC office or the appropriate Central

Office unit in the Benefits Department.

If a new claim is submitted electronically and the employer later discovers that a prior week which should have been the new claim was not submitted, the employer should prepare a paper NCUI 501 for that prior week and mail it to the Intrastate Unit in the Benefits Department. A letter of explanation prepared in the same manner as discussed in section 7.6 of this manual should accompany the paper NCUI 501.

The employer should instruct individuals with complaints about payments not received or other questions that the employer can not answer to contact the local ESC office via telephone or send an email to [esc.customerservice@ncmail.net](mailto:esc.customerservice@ncmail.net) for a response.

### **7.9 Electronic Filing Not Allowed in Some Situations**

In certain situations an employer may not use electronic filing methods for workers. Instead, the employer must prepare a paper NCUI 501 for a temporarily laid off worker and advise them to present the form to their local ESC office or advise a totally separated worker involved in a mass layoff to contact the agency to file the claim. Some examples of such situations are:

- The attached employee did not work a majority of all available hours during the week of temporary layoff or had unapproved absences during the week that prevented them from working a majority of the work that was available.
- The employee worked in another state during the 18 months prior to the first week of layoff or filed a claim with another state in the 12 months prior to the first week of layoff.
- The employee worked for the federal government or had military service during the 18 months prior to the first week of layoff.
- The employee is receiving a retirement pension other than Social Security from an employer whom they worked for during the 18 months prior to the first week of layoff. The employee should also contact the Commission if the amount of a reportable pension changes once the claim is begun.
- The claim is certified under the TRA program or the Disaster Unemployment Act.
- The employee is receiving or has applied for temporary total or permanent total disability. Claims should not be filed for workers who are out of work and being paid under the workman's compensation program.
- If it is a first filing to establish a benefit year and the employee is not a citizen. Noncitizens must be certified through the SAVE program that they are lawfully entitled to work before benefits can begin. The non-citizen must take their alien registration card to the local ESC office to complete this process.

## **Chapter 8 Commission Approved Training (CAT)**

### **8.1 Introduction**

Claimants who are enrolled in Commission Approved Training (CAT) designed to help them upgrade old job skills or acquire new ones may receive unemployment insurance benefits while participating in the training. Commission Approved Training includes (1) job skills training that is approved and arranged by local Employment Service offices (hereafter referred to as Commission Approved Training) and (2) job skills training furnished under the provisions of the Workforce Investment Act (hereafter referred to as WIA sponsored training).

Section 96-13(3) of the Employment Security Law states in part, "any otherwise qualified unemployed individual who is attending a vocational school or training program which has been approved by the Commission for such individual shall be deemed available for work". The law further states that, "The Commission may approve such training course for an individual **only if**.

(a) reasonable employment opportunities for which the individual is fitted by training and experience do not exist in the locality or are severely curtailed; (b) the training course relates to an occupation or skill for which there are expected to be reasonable opportunities for employment; and (c) the individual, within the judgment of the Commission, has the required qualifications and the aptitude to complete the course successfully; or, such approval is required for the Commission to receive the benefits of federal law".

The paragraph above provides the legal basis for the agency to enroll claimants in Commission Approved Training and to pay them, as well as claimants attending training under the provisions of WIA, unemployment insurance benefits. *Benefits paid for training weeks are not chargeable to an employer's experience rating account.*

#### **A. Commission Approved Training**

Commission Approved Training allows otherwise eligible claimants who have no reasonable marketable skills and who meet the criteria set forth by law to receive unemployment insurance benefits while attending training to develop such skills. Approved training may be provided by an industrial institute or a business school. The local office approves and arranges for the training (including advising the training facility of required actions and procedures).

#### **B. Workforce Investment Act**

Title I of the Workforce Investment Act (WIA) is a federally funded program that provides services which include employment and training activities for adults and dislocated workers, as well as youth activities. The Employment Security Commission contracts with Local Service Areas to provide these services. WIA contracted services vary according to Local Area.



**Note:** Claimants who are enrolled in WIA training and who fail to attend school during the summer months must meet all the eligibility requirements of the Law in order to receive unemployment benefits during these months. This requirement applies to an extended summer period, not to the usual one to two week period between school semesters.

### **C. Difference Between Commission Approved Training and WIA Sponsored Training**

For unemployment insurance purposes, there is only *one* major difference between Commission Approved Training (CAT) and training under WIA. Under CAT, the local office approves the training and is responsible for selecting, enrolling and monitoring claimants. Under WIA sponsored training, the local office may or may not have such a role.

The following manual sections apply to *both* CAT and WIA sponsored training *unless* otherwise indicated.

## **8.2 Claimants Who Qualify for Commission Approved Training**

To qualify for and be enrolled in Commission Approved Training, a claimant must (1) meet the requirements for approval described below, and (2) meet the other eligibility requirements for receiving unemployment benefits.

### **A. Requirements for Approval**

Before qualifying an individual (who is being paid or is entitled to unemployment benefits) for Commission Approved Training, the local office must determine:

- that reasonable employment opportunities for which the individual is fitted by training and experience either do not exist in the locality, or are severely curtailed;
- that such training relates to an occupation or skill for which reasonable opportunities for employment are expected; and,
- that the claimant has the required qualifications and aptitudes to successfully complete the training course.

### **B. Determination for Entitlement to Unemployment Insurance Benefits While In Commission Approved Training**

A local office representative (designated by the Manager) must carefully review the claimant's work registration, current local job orders, non-monetary determination (if any), and any other pertinent information before approving the claimant's receipt of benefits while attending training. If the claimant has received employment counseling, the local office representative should obtain the Employment Counselor's opinion regarding the claimant's qualifications and aptitudes for the proposed training.

When the local office representative has decided whether to approve or disapprove unemployment benefits during the training program, the local office Adjudicator will issue a formal written determination to the claimant. If benefits are allowed, this

determination serves as official certification that the training meets the prescribed criteria.

### **C. Non-charging of Benefits Paid to Claimants Enrolled in Approved Commission Training**

When a claimant has been enrolled in Commission Approved Training (CAT, TAA/TRA or WIA), access Screen N4--Approved Training and Assistance Determination and enter information which shows the type of training, the starting and ending dates of the training, whether the work search requirement has been waived and if it has, the starting and ending dates of the waiver.

This information is used by the Benefit Payment System to prevent employer charging of benefits paid to claimants enrolled in Commission Approved Training

## **8.3 Claim Procedures For CAT Participants**

The following paragraphs describe actions for taking new, reopened and continued claims.

### **A. New and Reopened Claims**

When taking a new or reopened claim for an individual in Commission Approved Training, determine if the claimant meets the qualifications described in Section 8.2 A. of this chapter.

Take both new and reopened claims in the usual manner (see Chapter 3 of this manual). If a separation issue is discovered, set the separation issue on the Benefit Payment System and refer the claim to the Adjudication Unit.

### **BPS Data Entry Screen Reference**

C3 - Establish Issue or Pension Amount

### **B. Determination on Training for CAT Only Claimants**

A non-monetary determination pertaining to training should not be prepared until:

- the claimant establishes a benefit year;
- any protest is resolved; and,
- the claimant is ruled eligible on any separation issue.

### **C. Complete/Review of Screen A.ER, Eligibility Review Profile**

Conduct an eligibility review interview and prepare a work search plan that documents the name and address of the training facility, the type of training, the beginning and ending dates of the training, days and hours of attendance, and any other pertinent information.

### **D. Weekly Certifications**

Claimants enrolled in training may file weekly certifications by mail or telephone or internet. Advise claimants that they will be scheduled for an eligibility review interview every six weeks. Enter information about the claimant into the automated eligibility review interview scheduling program.

#### **E. Subsequent Eligibility Review Interview**

Conduct a subsequent eligibility review interview every six weeks while the individual is enrolled in training. Verify the conditions of the training with both the claimant and the training facility. Take appropriate action on any questionable issue.

### **8.4 Claimant Receiving Unemployment Insurance When He Enters Training**

If the claimant is already receiving unemployment benefits when he enters training, follow the applicable paragraphs in Section 8.3 of this chapter, depending on whether the training is Commission Approved or WIA sponsored.

### **8.5 Questionable Issues**

Inappropriate, improper, or incomplete responses to the certification questions by the claimant, or information revealed during an eligibility review interview may raise potential issues, including the following:

#### **A. Refusal to Accept or Report for Training**

If a claimant who refused to accept or failed to report for training, files a subsequent continued claim, or later attempts to reopen his claim, refer the claim to the Adjudication Unit on the issue of "refused to accept" or "failed to report for training".

#### **B. Failure to Attend All Scheduled Training**

If the claimant fails to attend all scheduled training during a week, refer the claim to the local office Adjudicator on an availability issue.

#### **C. Left Training or Dismissed for Misconduct**

If the claimant voluntarily leaves training or is dismissed from training for misconduct, refer the claim to the Adjudication Unit on the issue of "separation from training".

#### **D. Dismissed from Training - No Fault of His Own**

If the claimant is dismissed from training through no fault of his own (unable to make satisfactory progress, etc.), do not raise an issue. Claimants who are not in approved training are required to meet the regular A & A requirements including work search.

### **8.6 Local Office Records**

Maintain local office records (claim record folder, etc.) for claimants enrolled in training in the same manner as for regular claimants.

**9.1 Interstate Benefit Payment Plan**

North Carolina has a mutual agreement (Interstate Benefit Payment Plan effective May 1938) with all the states of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, and Canada to accept and process interstate claims. Through this agreement, individuals who work and accumulate wage credits in one state (liable state), may file for unemployment insurance in any other state (agent state).

Since each state or governmental entity has its own unique basic eligibility requirements, the U.S. Department of Labor publishes a manual, *The Handbook for Interstate Claims taking*, to aid in processing interstate claims. The handbook can be accessed on-line in the Benefit Payment System, screen B.82 option 1.

Internet Connection (ICON), a computer system connecting all states and governmental entities participating in the Interstate Benefit Payment Plan, speeds up the processing of interstate claims by allowing states to transmit claims and related documents electronically. The ICON Inquiry System allows agency staff to obtain current claim information such as address, local office number, program type, effective date, weekly and maximum benefit amounts, payments made, remaining balance and disqualification dates, if any. This system can also display up to six quarters of wage information for an individual. Detailed procedures for using ICON and the ICON Inquiry System are contained in separate procedural manuals.

**BPS Inquiry Screen References**

82 - UI Interstate Handbook

88 - Internet Inquiry

**□.9.2 Identifying When to File an Interstate Claim**

1. 1. If a benefit year exists in another state and benefits are exhausted, terminated, postponed for an indefinite period (any suspension/postponement that cannot be satisfied by the passage of time or last for the remainder of the benefit year), or are affected by the application of a seasonal restriction, the claimant has an option to file an initial intrastate claim or an initial interstate claim against another state depending on where additional unused wage credits are available.
2. 2. If a benefit year exists, in another state and benefits are not exhausted, terminated, postponed indefinitely or for the remainder of the benefit year or affected by the application of a season restriction, the consultant will take those actions necessary to reopen the claim in the other state.

**2. 9.3 Interstate Claim versus Combined Wage Claim**

Before taking an interstate claim for an individual who has worked in another state, explore the individual's work history and base period earnings to determine whether an interstate claim or a combined wage claim should be taken. Consider the following: (1) claims may be filed against only one state at a time; (2) the claimant must file against any state in which a current benefit year is in progress and regular benefits are available; (3) if a claimant can qualify for an interstate claim, all future

weekly claims must be filed against that state until benefits are exhausted, terminated, postponed for an indefinite period or the benefit year ends; and (4) claims may be filed against any state in which the claimant has benefit credits available, provided a current benefit year has not established previously through the filing of an intrastate or an interstate claim.

A claimant who has worked in more than one state often has a number of filing options. Discuss all available options with the claimant. To help the claimant make a decision, advise him of the various states in which he may be eligible, various non-monetary eligibility requirements applicable to the claimant's situation, causes of separation that impose penalties, dependent's allowances if applicable, maximum potential weekly benefit amounts, and maximum duration of benefits and seasonal restrictions if seasonal wages are involved. Caution must be taken to not attempt to offer any assurance that claimant would indeed receive benefits in a certain amount or for certain duration or whether indeed he would receive any benefits at all, as those decisions will be made by the liable state.

In most cases, a combined wage claim is appropriate if:

- the claimant has a disqualification or other such impediment under the other state law that would deny benefits; or,
- a North Carolina claim would likely have a higher weekly benefit amount and/or in some cases a higher maximum benefit amount.

If he elects to file a combined wage claim, a claimant cannot select the paying state. See Chapter 10 of this manual for information about Combined Wage Claims.

While it is impossible to explore all the potential employment histories claimants may present, a few of the most frequently encountered situations and their associated filing options are described below.

#### **A. No N.C. Wages - Wages in one other State**

Only one filing option is available to an individual who (1) is living in North Carolina, (2) has not worked in North Carolina during the current base period, and (3) has worked in only one other state with sufficient wages during that state's current base period to establish a benefit year. Take an interstate claim against that other state.

#### **B. No N.C. Wages - Wages in Two Other States**

This individual has several filing options. If he has sufficient qualifying wages in *both* states, he may file an interstate claim against either state. If he has sufficient qualifying wages in one state and not in the other, he may file an interstate claim against the state in which he qualifies. On the other hand, he may elect to file a combined wage claim. The fact that a claimant can establish separate eligibility in one or both of the states in which he worked does not prevent him from filing a North Carolina combined wage claim to use the wages from both states. Take either an interstate or a North Carolina combined wage claim as the claimant's wishes.

#### **C. Has N.C. Wages and Wages in one other State**

This claimant also has several filing options. If there are sufficient N.C. wages, a regular intrastate claim can be filed. If there are sufficient wages in the other state, an interstate claim against that state may be filed. Or, a combined wage claim may be filed in order to use all the wages from both states which fall within the NC base period. The fact that a claimant can establish separate eligibility in N.C. does not prevent him from electing to file a combined wage claim. Take a regular intrastate claim, an interstate claim or a North Carolina combined wage claim according to the claimant's request.

**BPS Inquiry Screen References**

01 - Claimant Profile Data W6 - Wage History File  
03 - Employer Summary

**9.4 Claim Option Chart**

The following reference chart describes the most common situations encountered with claimants who have out-of-state wages. The chart uses wage credits from three states. It displays a claimant's filing options based on the number of states in which a claimant worked and the amount of wages he earned in those states.

<b>Claim Options for Claimant with Out-of-State Wages</b>				
<b>Wage Credits</b>			<b>IMPORTANT!</b> <b>If the claimant elects to file a combined wage claim, a North Carolina combined wage claim must be attempted first.</b>	
<b>State "A"</b> <b>North Carolina</b>	<b>State "B"</b>	<b>State "C"</b>	<b>Options Available</b>	<b>Paying State</b>
Sufficient	Sufficient	Sufficient	Intrastate Interstate against B Interstate against C Combined Wage A, B, & C	A B C A*
Sufficient	Sufficient	Insufficient	Intrastate Interstate against B Combined Wage A, B, & C	A B A*
Sufficient	Sufficient	None	Intrastate Interstate against B Combined Wage A & B	A B A*
Sufficient	Insufficient	Insufficient	Intrastate Combined Wage A, B, & C	A A*
Sufficient	Insufficient	None	Intrastate Combined Wage A & B	A A*
Insufficient	Sufficient	Sufficient	Interstate against B Interstate against C Combined Wage A, B, & C	B C A*
Insufficient	Sufficient	Insufficient	Interstate against B	B

			Combined Wage A, B, & C	A*
Insufficient	Sufficient	None	Interstate against B Combined Wage A & B	B A*
Insufficient	Insufficient	Insufficient	Combined Wage A, B, & C	A*
Insufficient	Insufficient	None	Combined Wage A & B	A*
None	Sufficient	Sufficient	Interstate against B Interstate against C Combined Wage B & C	B C A*
None	Sufficient	Insufficient	Interstate against B Combined Wage B & C	B A*
None	Insufficient	Insufficient	Combined Wage B & C	A*

**Notes:** **Sufficient** means enough wage credits to separately qualify for some benefits.

**Insufficient** means not enough wages to qualify for any benefits.

### 9.5 General Requirements Concerning Attached Unemployment

North Carolina defines an "attached" claimant as one who retains an attachment to the work force or payroll of an employer, but who is without work during *all* or *part* of his employer's payroll week. References in the *Handbook for Interstate Claims Taking* to "partial claims", "week of partial unemployment", or "partially unemployed", mean the same thing as our "attached". Attached unemployment applies only to those interstate claimants who meet the following conditions:

- are working for a regular employer, and
- worked less than the normal, customary, full-time work hours for such employer during a payroll week ("less than" can mean no hours), and
- their wages for the week are less than the partial earnings limit for the state against which a claim may be filed. (The claimant may have had no earnings for the week.)

Refer to the *Handbook for Interstate Claims Taking* to determine whether a particular state accepts partial (attached) claims. For those states that accept partial claims, two requirements differ from those followed for separated interstate claimants. These requirements are:

- Retroactive filing of claims for partial (attached) benefits is allowed, and
- Employer-reported earnings must be verified with the claimant to ensure that earnings from secondary jobs are included.

The fact that a state does not accept partial claims does not mean that partially unemployed individuals will not be paid benefits if normal procedures are followed. It does mean, however, that the special procedures outlined above are neither required nor allowed for partial (attached) claimants, and any interstate claims must be submitted on a *separated* basis.

### 9.6 Initial Interstate Claims

The following paragraphs describe the general procedures for taking initial and continued interstate claims. It should be noted that some states are in a call center environment and require all claims to be filed directly with the liable state. Still other states allow filing over the internet and again want the claim to be filed directly with the liable state. The following general procedures apply to those states that still



require agent state assistance in filing a claim. Refer to the *Handbook for Interstate Claims Taking* for information about the method of filing, eligibility requirements and form completion specific to each state.

### **A. Benefit Rights Interview**

Conduct a benefit rights interview in accordance with the instructions in Chapter 2 of this manual. Show the claimant the appropriate version of the interstate benefit rights videotape --English, Spanish or hearing impaired. Be sure to inform the claimant of the specific eligibility requirements of the liable state as described in the *Handbook for Interstate Claims Taking*.

In addition fulfill the following responsibilities of the Agent State:

- ☐• Inform the claimant of the relationship between the Agent and Liable State (such as that the agent state gathers information and performs other requested tasks and the liable state makes
- ☐all decisions on the claim);
- ☐• Explain the services available to the claimant through the Agent State;
- ☐• **NOTE:** Keep in mind that the claimant may face the problem of competing against local residents for jobs. That problem can be aggravated by the claimant's unfamiliarity with the local labor market and hiring customs of local employers.
  - Emphasize the need to comply with reporting requirements when called in for job referral by the agent state or when instructed to do so by the liable state.

### **B. New Claim for Separated Unemployment**

A new interstate claim is an application by an individual to the liable state requesting a determination of his eligibility for benefits, benefit amount, duration, and certifying as to the beginning date or the continuance into a new benefit year of a period of unemployment. An interstate claimant may have as many 'new' claims as there are different states against which the claimant claims benefits in succession. An interstate claimant can establish a benefit year in a state even though a benefit year exists in another state. However, when an interstate claimant's eligibility is determined or is pending with a given Liable State, claims can be filed only against that state until an ineligible determination is issued or benefits have been exhausted, terminated, or postponed for an indefinite period. All separated interstate claimants must be registered for work in the agent state. Procedures for taking a new interstate claim include:

1. Complete Form IB-1, *Initial Interstate Claim*, in duplicate according to the Instructions for Preparing Form IB-1. Access Screen 81, Internet IB-1 Main Menu in the Internet Subsystem; enter the required data and transmit it to the liable state. Mail the original Form IB-1 to the liable state and retain the copy in the claim record folder.

**Note:** The automated version of the *Handbook for Interstate Claims Taking* provides a central listing of the names of vessels that may be used in taking maritime claims. Information about the employer's address, state of jurisdiction and dates of coverage can be obtained by entering either the vessel name or the company name.

1. 2. The IB-1 will notify the liable state that a potential separation information issue exists. The agent state does not need to assist in the fact finding process on such issues until or unless the liable state requests such assistance.

□.3. Give the claimant an explanation about filing their interstate claim. Use the Handbook for Interstate Claims Taking as a guide to informing the claimant about the expectations their liable state will have of them as a claimant and to answer claimant's questions about entitlement and/or the process, emphasizing the following points:

- North Carolina is merely acting as an agent to take the claim and transmit it to the liable state, and that all determinations and decisions concerning the claim will be made by the liable state. The claimant will receive an information packet and filing instructions from the liable state generally within two weeks. The claim will then be handled entirely by the liable state, and the claimant must follow the liable state's instructions for filing.

- .• The claimant will not report back to the North Carolina local office unless directed to do so by the liable state, or unless a specific problem arises that assistance from

- .North Carolina is requested or required to help resolve.

- Emphasize that timely benefit payments depend on accurate, complete and legible form completion.

- As the agent state North Carolina does not play a part in the filing of weekly certifications. Provide the claimant with the telephone number for the liable state's VRU or the internet site where claimant must file the weekly certification. Instruct the claimant as to the frequency of such filing. Instruct the claimant in any special filing requirements the liable state may have.

- Give the claimant the mailing address and telephone number and web site, if any, of the liable state.

- .• Advise the claimant of the liable state's work search requirements, referring to the *Handbook for Interstate Claims Taking*. While these requirements vary the "Policy Statement on Active Search for Work" is that "All interstate benefit claimants shall make such personal efforts to find work as are customarily made by persons in the same occupation who are genuinely interested in obtaining employment."

- .The claimant should be told to keep a personal record of work search contacts for future reference. Claimants should be told that they will need this information to complete Eligibility Review forms that may be sent to them by the Liable State. The record should include: date of contact; type of contact (new or follow up); method of contact (in person, phone, resume, etc.); type of work sought; name of company; address of company; name and position of any hiring official talked to; and results of the contact.

- The monetary determination will be sent by the liable state to the claimant.

1. 4. Keep all copies of all documents in the claim record file. If Form NCUI 505, *Claim Record Folder*, is utilized clearly mark it to indicate the liable state.

2. 5. Complete a work registration on the claimant or instruct claimant on how to register on line, if claimant has not already done so. A part of the Interstate Benefit Payment Plan agreement is that the claimant is required to observe the same registration and reporting requirements prescribed by the Agent State for intrastate claimants. Anytime an interstate claimant fails to report as directed and there is a potentially disqualifying issue involved the liable state must be notified. An electronic Form IB-13 can be used for this purpose.

3. 6. The Agent State is not responsible for conducting ER interviews of interstate claimants. However, it is responsible for assessing the claimant's skills, employability, and needs for reemployment assistance and/or supportive services, for

making necessary Job Service referrals and for notifying the Liable State of any issues detected. When called upon the Agent State will also supply labor market information.

### Internet Subsystem Screen References

#### 81 - Internet IB-1 Main Menu

##### **C. New Claim for Attached Unemployment**

If claimant requests assistance in filing an attached claim refer to the Handbook for Interstate Claims Taking to determine if the liable state allows filing of such claims and so advise the claimant. It must be understood that all states do not use the same threshold (working less than 3 customarily scheduled days) when allowing the filing of an attached claim. For our border states (Va., SC and Ga.) it may be that the employer needs merely to be informed of the liable states requirements and have the employer file directly with the liable state. In the absence of any specific filing methods, take a new interstate claim for attached unemployment on Form IB-1 and submit it via the ICON system.

- For "Last Employer", show the name and address of the current employer. Enter the beginning date of employment and the last date the claimant actually worked.
- Enter 'lack of work/payroll attached' as the reason for separation from last employer.
- If the claimant is not a citizen obtain the copies of the documents necessary to do a SAVE verification. Mail copies of any INS documents and any other pertinent documents to the liable state. Keep copies of these documents in the local claim record file.
- See section 9.10 B for processing of the weekly certification(s).

#### **9.7 Transitional Claim**

Take a transitional claim whenever a claimant files a new claim against the same liable state and the effective date of the new claim is within seven days of the prior benefit year ending date and there is no break in the claim series. Complete Form IB-1 in accordance with the instructions for taking a new initial claim in Section 9.6 B. of this manual.

#### **9.8 Additional Claim**

Take an additional claim whenever a break of one week or more, caused by intervening employment, occurs in a claims series within a benefit year. Complete Form IB-1 in accordance with the instructions for taking a new initial claim in Section 9.6 B. of this manual. Complete the employment record only for work performed since the last continued claim was filed against the liable state.

#### **9.9 Reopened Claim**

Take a reopened claim whenever a break of one week or more, *caused by some reason other than intervening employment*, occurs in a claims series within a benefit year. Complete Form IB-1 in accordance with the instructions for taking a new initial

claim in Section 9.6 B. of this Chapter. There is no need to complete the employment record since there has been no intervening work.

If more than 10 days have passed since claimant filed a weekly certification and the claimant wishes to file for those skipped weeks, complete Form(s) IB-2. In order to provide an explanation of why there is a break in the claim, complete Form IB-13 and explain the reason the claimant failed to file continuously. The IB-2(s) and a covering memo telling the Liable State to refer to the electronic IB-13 must be mailed to the liable state.

### **9.10 Continued Claims**

The following paragraphs contain information pertinent to interstate continued claims.

#### **A. Separated Unemployment**

A continued interstate claim is filed for any week claimed after the initial claim. Liable State participation is normally limited to providing the claimant the telephone number or internet site where weekly certifications can be filed.

The claimant should be advised to follow the liable state's weeks claimed filing instructions and to contact the liable state directly if a problem arises. However, it is the Agent State's duty to provide assistance to any claimant who requests it.

#### **B. Attached Unemployment**

When an initial claim is taken for attached unemployment, take a continued claim on Form IB-2 to cover the payroll week(s) of unemployment being claimed. Make sure that claimant clearly understands the requirement to report all earnings, both from the attached employer and any secondary jobs claimant may work during the benefit week. Advise claimant based on the requirements of the liable state whether or not it will be necessary to report back to the North Carolina office to file additional weeks for which attached unemployment may occur with the claim benefit year.

Take continued claims for attached interstate claimants using the same procedures as separated claimants, with the following exceptions:

- Some states *do* require attached claimants to search for work. For such states, advise the claimant of the need to maintain a record of all job search efforts. The claimant may be held ineligible if job contacts can not be verified.
- Earnings reported by an attached claimant are subject to verification with the employer. Attachment of Form NCUI 501, *Notice of Temporary Layoff*, to the IB-2 is normally considered sufficient verification. Handle additional requests for verification according to instructions received from the liable state. Remind the claimant to include gross earnings from secondary employment when filing the weekly certification and itemize it on the IB-2 along with the filing employer.
- The IB-2(s), NCUI 501(s) and other pertinent documents must be mailed to the liable state for processing.

### **9.11 Non-separation Issues**

If a non-separation issue arises at any time during the claims series, complete Form IB-13 on screen B.83. Refer to the *Interstate Handbook* for information needed by the liable state, and to their instructions for preparing Form IB-13. *North Carolina does not make any determinations on interstate claims.*

### 9.12 Backdating and Late Reporting

Backdate an interstate claim if appropriate. Note and explain any backdating request that is not an issue, e.g., local office scheduling, on Form IB-1 under 'remarks'.

Backdating codes to be entered on Form IB-1 item D include the following:

0 - Backdating not requested 4 – Backdated due to failure to file transitional claim – non-claimant error. 1 - Filed invalid interstate claim 5 - Backdated due to cancelled combined wage claim 2 - Filed invalid intrastate claim 6 - Other - Explained on IB-13. 3 – Backdated due to scheduling in Agent State

Prepare Form IB-13 to explain a backdating request that raises an issue. Send IB-2(s) for any weeks prior to the week in which the claim is actually filed. Explain any late "in-person" continued claim filing on Form IB-13.

### 9.13 Change of Address

It is the responsibility of the claimant to notify the Liable State of any change in their address. However, the address must also be changed on the Agent State's work registration. The claimant will be told by the liable state to contact the Agent State to ensure that the work registration is updated.

### 9.14 Interstate Appeals

The Liable State is responsible for all interstate appeals from monetary and non-monetary determinations. The Liable State will notify interested parties of the date and the time for an appeals telephone hearing. If the Liable State determines that a telephone hearing is inappropriate (e.g., the claimant is deaf), the Liable State's appeals section will request the Agent State's appeals section to conduct an in-person hearing on their behalf.

**Note:** *A few states do not accept claimant appeals of initial non-monetary determinations. Instead, they require claimants to request a re-determination. To determine if the Liable State requires this procedure, consult the Handbook for Interstate Claim Taking. When the Liable State issues a redetermination, the claimant may appeal the re-determination.*

If the acceptance of an appeal is to be handled by the Agency State, accept the appeal even if the appeal period has expired. The Liable State will determine the timeliness of an interstate appeal.

*If an interstate claimant wants to appeal a determination, check option 8 on the Liable State's page in the Handbook for Interstate Claims Taking (B.82). Follow the instructions in the Handbook for Interstate Claims Taking.*

### **A. In-Person Appeal of Non-Monetary Determination**

If a claimant who disagrees with a non-monetary determination reports to the local office for assistance, review the determination with the claimant to ensure that he understands its meaning. If, after reviewing the determination, the claimant wishes to file an appeal, follow the instruction given for the Liable State in the Handbook for Interstate Claims taking (B.82). Unless otherwise directed, prepare and transmit Form IB 101, Notice of Interstate Appeal, to the Liable State. Do *not* send a copy of this request to the Agent State's appeals section.

Obtain a statement of the claimant's reasons for disagreeing with the determination. Explain to the claimant that the Liable State will conduct a telephone hearing on the appeal. Advise the claimant that the Liable State will notify him of the date and time of the appeal and the procedures that will be followed. Access Screen RC, Client Notes, and indicate that the claimant has appealed the interstate non-monetary determination and the date of that appeal.

### **B. Mail Appeal of Non-monetary Determination**

If a claimant mails an appeal of an interstate non-monetary determination to the local office, access Screen RC, Client Notes, and note the appeal and the date it was received. Use the information in the claimant's letter to prepare Form IB-101. Attach the claimant's letter of appeal (along with its envelope) to Form IB-101 and route the documents to the liable state.

**Note:** Enter pertinent information from the claimant's letter in Item 5(a) on Form IB-101.

### **C. Non-monetary Determination Appeal Filed Directly with Liable State**

If a claimant mails his appeal directly to the Liable State, the Liable State Interstate Claims Unit is responsible for acknowledging the receipt of the appeal. They will notify the claimant of the date, time and place of the hearing on his appeal.

If a claimant mails an appeal from a determination to a Liable State that only accepts appeals from re-determinations, the Interstate Claims Unit of that state will notify the claimant that the determination will be reconsidered, and that he may file an appeal of the redetermination if he still disagrees.

### **D. Appeal Filed by Claimant Who Has Been Filing Through an Agent State Other Than North Carolina**

If an interstate claimant who has been filing through another state reports to file an appeal, complete the appropriate form and forward the appeal directly to the Liable State.

### **E. Appeals by Employers**

If an employer inquires about making an interstate appeal, advise them to mail the appeal directly to the Liable State. If an employer mails an appeal from an interstate non-monetary determination to the North Carolina agency, note the appeal on the RC,

Client Notes Screen, and complete Form IB-101 and forward it with the appeal (and envelope) to the Liable State.

#### **F. Monetary Determination/Wage Transfer Appeals**

If a claimant disagrees with a monetary determination or the results of a wage transfer request, review all available information to determine what course of action to take.

If the claimant contends that the monetary determination was based on incorrect earnings or weeks of work (base period), prepare Form IB-14, *Request for Reconsideration of a Monetary Determination/ Wage Credits* attach any documentation the claimant can provide to substantiate the protest.

If the contested wages were not included in the monetary determination or wage transfer because the liable state has issued a determination denying their use, prepare and transmit Form IB-101, *Notice of Interstate Appeal*, to the liable state.

#### **G. Withdrawal of Claimant's Appeal**

Advise an interstate claimant who notifies the North Carolina agency orally of his desire to withdraw his appeal to send a written request for withdrawal directly to the liable state. If circumstances warrant, provide assistance in withdrawing the appeal by completing Form IB-13.

#### **9.15 Reports of Fraudulent Filing and Recovery of Overpayments**

If the local office receives information concerning fraudulent reporting by an interstate claimant, complete Form IB 13, and submit it to the liable state. North Carolina BPC staff will assist in the investigation upon the request of the liable state.

North Carolina is part of **IRORA** (Interstate Reciprocal Overpayment Recovery Arrangement). As such we cooperate with other states that are part of the agreement to recover outstanding overpayments for other states just as we would recover an overpayment on a North Carolina claim. Collection requests are routed to the Benefit Control Unit in the Benefits Department for assistance.

States will from time to time request assistance in locating overpaid claimants. This is normally accomplished through the Interstate Crossmatch system. However, should such a request be received in an office and assistance can not be provided at that level the matter should be referred to the Benefit Payment Control Unit in the Benefits Department or to the local Claims Investigator.

## **Chapter 10**

## **Combined Wage Claim**

### **10.1 Introduction**

The Interstate Arrangement for Combining Employment and Wages allows an unemployed worker with covered wages and employment in more than one State to combine all his covered employment in the base period to satisfy the wage qualification requirements of the paying state or as a means of increasing the weekly or maximum benefit amount. All states, the District of Columbia, Puerto Rico, and the Virgin Islands participate in the Combined Wage Plan. Canada does *not* participate in the plan.

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. 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.

State agencies must operate in accordance with the rules and regulations prescribed by the U.S. Secretary of Labor and follow all procedures and use forms prescribed by the U.S. Secretary of Labor when filing a combined-wage claim.

### **10.2 Automated Combined Wage Claims**

Internet Connection (ICON), a computer system connecting all the states and governmental entities covered by the Interstate Benefit Payment Plan, allows the electronic transmittal of combined wage claims and related documents. The ICON Inquiry System allows agency staff to obtain current claim information such as address, local office number, program type, effective date, weekly and maximum benefit amounts, payments made, remaining balance and disqualification dates, if any. This system can also display up to six quarters of wage information for an individual. Detailed procedures for using ICON and the ICON Inquiry System are contained in separate procedural manuals.

Incoming wage requests for most combined wage claims are automatically processed by the Benefit Payment System. When necessary, Central Office staff manually process incoming wage requests. The IB-4 interface program generates claimant letters/notices which provide general information and explain claim options, if appropriate.

### **10.3 Election to File a Combined Wage Claim**

An unemployed individual with covered employment in more than one State may elect to file a combined wage claim, provided he does not have unused benefits in an on-going benefit year established under another State or Federal Unemployment Compensation Law. A claimant does not have unused benefits if:



- he has exhausted all benefits based on such benefit year;
- 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
- his benefits are affected by the application of a seasonal restriction.

**Note:** Ineligibility due to an A & A issue is not considered an indefinite postponement. A person who has a disqualification on an existing benefit year with a benefit balance and had had sufficient employment and earnings to satisfy the re-qualification requirements must continue to file against that claim until benefits exhaust or he is indefinitely postponed again.

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 the claimant expects to be unemployed for a period in excess of the combined-wage claim duration.

If an individual elects to file a combined wage claim, all employment and wages from all states in which the claimant worked during the base period of the paying State *must* be included in such combining. All available wages in all States must be requested and used on the combined wage claim even though not all are needed for maximum benefit entitlement. The claimant may not select the paying State but must accept the paying state as defined under the rules set forth by the U.S. Secretary of Labor under the combined wage agreement.

For more information about when a combined claim may be filed, refer to the chart entitled "Claim Options for Claimant with Out-of-State Wages" in Chapter 9 of this manual.

#### BPS Inquiry Screen References

01 - Claimant Profile Data	W6 - Wage History	File 07 -
Benefit	Payment	History

#### BPS Internet Subsystem Screen References

80 - Internet System wide Main Menu	84 - Internet IB-4 Main Menu
81 - Internet IB-1 Main Menu	88 - Internet Inquiry
83 - Internet IB-13 Main Menu	

### **10.4 Selection of the Paying State**

When reviewing the claimant's work and claims history covering the preceding 24 months at the time of filing the initial claim or when explaining the 'Wage Transcript & Monetary Determination' the potential combined wage claimant can be identified. Those individuals who have wage credits in two or more states in the past 24 months must be advised of their potential eligibility for a straight intrastate claim, a straight interstate claim and/or a combined wage claim. The

claimant should be advised of the advantages and disadvantages of each option he may be entitled to. It should be made clear to the claimant that the options being given are based on information supplied by the claimant and based on eligibility and disqualification provisions of each State in which claimant worked and appears to have benefit entitlement. The paying State would make the official decision on any claim filed. The final decision of what claim to file (interstate, intrastate or combined wage) is the claimants.

A claimant may not select which State they want to pay a combined wage claim. The State in which the new claim is filed is always the paying State if, after combining all wages, the claimant has sufficient wages in its base period to establish a benefit year. If the claimant is not eligible in the filing State, the paying State is the State in which the claimant last worked in covered employment, provided the claimant can establish a benefit year in that State after combining all his wages. Should the claimant fail to qualify in that State, the paying State becomes the State in which the claimant's next most recent covered employment occurred, etc. UCFE and UCX wages insufficient to establish benefit years may be used in wage combining.

**Note:** The state in which the new claim is filed is the state the claimant is physically located in when he files. The claimant's mailing address is used as the state claimant is in when filing a claim by internet or telephone.

#### BPS Inquiry Screen References

01 - Claimant Profile Data W6 - Wage History File 07 -
Benefit                                      Payment                                      History

#### BPS Internet Subsystem Screen References

80 - Internet System wide Main Menu	84 - Internet IB-4 Main Menu
81 - Internet IB-1 Main Menu	88 - Internet Inquiry
83 - Internet IB-13 Main Menu	

### **10.5 Filing New Combined Wage Claims**

Depending on the paying state, take the following actions when filing a new combined wage claim.

#### **A. North Carolina Is the Paying State**

If North Carolina is the paying State, follow regular intrastate claims taking procedures. In addition, prepare and transmit Form IB-4, *Request for Transfer of Wages*, to those States in which the claimant has base period wages. An existing benefit year with available unused benefits in any State precludes the filing of a combined wage claim.

## **B. North Carolina Is Not the Paying State**

If North Carolina is not the paying State, follow regular interstate claims taking procedures and any other requirements of the paying State as described in the *Interstate Handbook*. Be sure to indicate on Form IB-1 that the claim is a combined wage claim and that the claimant can not establish monetary eligibility in North Carolina based on the combining of wages.

**Note:** Always take a combined wage claim against North Carolina first, even in those instances where it appears that North Carolina cannot be the paying State (work history, base periods, etc.). When an ineligible monetary determination is received, submit a new claim to the State in which the claimant last worked in covered employment.

### **BPS Inquiry Screen References**

01 - Claimant Profile Data W6 - Wage History File 07 -  
Benefit                                      Payment                                      History

### **BPS Inquiry and Internet Subsystem Screen References**

80 - Internet System wide Main Menu 84 - Internet IB-4 Main  
Menu 81 - Internet IB-1 Main Menu 88 - Internet Inquiry 83 -  
Internet IB-13 Main Menu

## **10.6 Filing Weekly Certifications**

Weekly certifications are filed according to the procedures of the paying State.

### **A. Intrastate Claims (North Carolina Paying State)**

If North Carolina is the paying State, combined wage weekly certifications are filed and processed in the same manner as any regular intrastate claim that is filed by VRU or over the internet.

### **B. Interstate Combined Wage Claims**

If another State is the paying State, combined wage weekly certifications are filed and processed according to regular interstate procedures and the requirements of the paying State. Provide the claimant with the information necessary to file weekly certifications at the time the new claim is filed.

## **10.7 Information to be given to a Combined Wage Claimant**

Be sure that the claimant receives the following information.

### **A. Transferring Wages - Preparation of a Monetary Determination**

Advise the claimant that it may take some time to have his wages transferred to North Carolina, and for preparation and mailing of a final 'wage transcript & monetary determination'. If multiple states will be transferring wages the claimant will get a revised wage transcript every time wages are received. Tell the claimant to contact the office in the paying State where the claim was filed before writing to any State to inquire about the status of any request to transfer wages.

### **B. Possible Overpayment in a Wage Transferring State**

Explain to the claimant that if he has an outstanding overpayment in a wage transferring State, North Carolina may be required to deduct the amount of the overpayment from benefits that would otherwise be payable to him. North Carolina is part of IRORA (Interstate Reciprocal Overpayment Recovery Agreement) and as such will honor requests to offset overpayments, against benefits payable on the combined wage claim, in other states whether or not it is a 'wage transferring State'.

## **10.8 Wage Transcript and Monetary Determination**

The combined wage claimant normally receives at least two monetary determinations. The first, which shows only North Carolina wages, may be printed on-line and presented to the claimant when the initial claim is filed. The second (revised) monetary determination, mailed to the claimant from the Central Office, shows all wages assigned to the claim (North Carolina and participating states). Each State's wages are displayed by quarter and year.

The claimant may withdraw from a combined-wage claim any time within the 10 day period allowed for protesting the 'Wage Transcript & Monetary Determination'. 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 against which a claim will be filed to withhold and forward to North Carolina a sum sufficient to repay such benefits. To request that a combined wage claim be withdrawn a form UIC 72 should be prepared and forwarded to the Monetary Revision Unit in the Benefits Department.

There are special rules dealing with the transfer of wages from several types of employment. Special handling is required if wages being requested for transfer are UCFE, UCX, wages earned while not in lawful alien status, wages from educational institutions, wages as a professional athlete or wages subject to seasonal restrictions. Questions about claims involving such employment can be sent to the Combined Wage Unit in the Central Office.

## **10.9 Protesting Monetary Determinations**

A claimant, who disagrees with the earnings shown for *North Carolina* employment, may protest the *original* monetary determination.

Complete Form UIC 72, *Protested Claim or Wage Transcript*, in duplicate; write

"Combined Wage Claim" in red across the top of both copies. Send the original and any pertinent documents (Forms W-2, check stubs) to the Monetary Revision Unit in the Benefits Department. Send the duplicate Form UIC 72 to the Combined Wage Unit.

If the claimant disagrees with the earnings reported by another State, prepare Form IB-14, *Request for Reconsideration of Monetary Determination*, in triplicate. After attaching copies of Forms W-2, pay stubs, etc., which substantiate the protest, forward the original and one copy of Form IB-14 to the transferring State. Send the third copy to the Combined Wage Unit so they will be aware of the protest. If the request for reconsideration is denied and the claimant chooses to appeal the determination, prepare and transmit Form IB-101, *Notice of Interstate Appeal*, to the transferring State.

**Note:** Do not protest earnings reported by another State until a response has been received from all transferring states.

#### **10.10 Claimant Qualifies for a Higher Benefit Amount from a Wage Transferring State**

If transferred wages indicate that the claimant could qualify for a higher benefit amount in one of the other states, the Combined Wage Unit will send the claimant a letter explaining his options. The letter asks the claimant to notify the agency within ten days of the decision to either continue the combined wage claim or to file an interstate claim.

- If the claimant decides to file an interstate claim, notify the Combined Wage Unit so that transferred wages may be promptly returned to the appropriate state. Take an interstate claim in accordance with the procedures described in Chapter 9 of this manual. Be sure to advise the claimant that any benefits he may have received under the combined wage claim must be repaid. Note the claimant's decision on Screen Y1.
- If the claimant decides to continue the combined wage claim, notify the Combined Wage Unit and note the claimant's decision on Screen Y1.

**Note:** If the claimant does not respond within ten days, the combined wage claim will be continued.

#### **10.11 Processing Withdrawal Request**

Before the paying State's monetary determination becomes final (ten days in North Carolina), a claimant may withdraw his combined wage claim without giving a reason. Since many factors are not known until the monetary determination is received, the claimant is not required to give a reason for his withdrawal request. Have the claimant sign a Form UIC 72 or send a letter to the Combined Wage Unit expressing the desire to withdraw the combined wage claim. If benefits have been paid on the combined wage claim, claimant must pay or make satisfactory repayment

arrangement to repay those benefits paid. Repayment may be made in cash or other negotiable instrument or by an authorization to the State from which he next claims benefits. Include the payment or signed authorization agreement to reimburse North Carolina with the UIC 72.

If the agreement is an authorization for another State to reimburse the paying State, send a copy of the signed authorization to that State. When a copy of the request is sent to another State, annotate the paying State's copy to indicate this action. Any assistance in the repayment process can be requested from the Benefit Payment Control Unit in the Benefits Department.

## **Chapter 11 Disaster Unemployment Assistance (DUA)**

### **11.1 General Information**

The first line of defense to an individual's unemployment due to a disaster is the regular unemployment compensation program. The purpose of the Disaster Unemployment Assistance (DUA) program is to provide unemployment assistance to those individuals, who become unemployed as a direct result of a major disaster but are not covered under the Federal or State UC programs. Therefore, DUA is not payable in lieu of a regular unemployment claim. DUA is not payable as a supplement to unemployment compensation for the same week of unemployment, nor is it payable for any unemployment compensation waiting period required under State law. DUA is not designed to provide 100 percent income replacement or to help with business losses to self-employed individuals who suffer such losses due to a disaster.

The Disaster Unemployment Assistance Program can begin *only after*:

- the Governor of the affected state has requested a major disaster declaration from the President of the United States; and,
- the President, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C 5177(a)), has reviewed the request and determined that a major disaster exists. If the President declares a major disaster, the Governor will receive written notice of the declaration.

Official notice of the disaster declaration is published in *The Federal Register*. This notice contains the type of disaster, the declaration date, the disaster beginning date, the disaster number, the counties affected, and any amendments made to the original disaster notice.

The Secretary of Labor is responsible for the administration of the program and payment of benefits. The State Agency acts as the agent for the Secretary of Labor in administering the DUA Program. To ensure that the Disaster Unemployment Assistance program is properly implemented, a member of the unemployment insurance staff in the Regional Office of the Employment and Training Administration (ETA) will act as Regional Coordinator for each disaster.

Once a disaster is declared, the Employment Security Commission will ensure that information about the availability of disaster unemployment assistance is widely disseminated. The Commission will release statements to all news media announcing that all individuals, including self-employed persons, who were living or working in the affected area(s) at the time of the disaster *and* who are unemployed as a result of the disaster, may be eligible for Disaster Unemployment Assistance. These statements will identify the location(s) where DUA applications can be filed, and will also advise affected persons that they must apply for DUA within 30 days of the announcement date.

## 11.2 DUA Eligibility Period

The DUA eligibility period begins on Sunday of the first week following the date the disaster occurred. While the disaster assistance period is normally 26 weeks, this period may be extended if there is some delay in issuing the disaster declaration.

## 11.3 General Eligibility Conditions

DUA entitlement can be established **only** when no other unemployment insurance compensation is available to an individual. In order to qualify for DUA, individuals must be unable to work at their on-going employment or self-employment due directly to the disaster or must be prevented from commencing employment or self-employment. This includes individuals who reside in the major disaster area but are unable to reach their place of employment or self-employment outside the major disaster area, and individuals who must travel through a major disaster area to their employment or self-employment, but who are unable to do so as a direct result of the major disaster. In making an eligibility determination pertaining to individuals who must travel out of or through the disaster area, the Agency will consider factors such as alternate means of transportation, other routes to work where the major disaster has disrupted the usual and/or shortest route, commuting patterns in the area, and the reasonableness of utilizing such alternatives to continue employment or self-employment.

To be eligible for Disaster Unemployment Assistance benefits, an individual must have been working or self-employed in the disaster area and have become unemployed due directly to the disaster, or must have become the breadwinner or major support of a household because the head of the household died as a result of the disaster. Such individual must also

- have exhausted all regular program benefits or be monetarily ineligible;
- or,
- have a current regular program claim that has ended and be unable to establish a new benefit year; or,
- ☐ • have a regular program claim that has been non-monetarily denied because
- ☐ (1) he cannot remove a prior indefinite disqualification on a regular program claim (only applicable when the claimant's most recent separation was disaster related);
- ☐ (2) he has a disaster related injury or disability; or,
- ☐ (3) he cannot reach the work site because of the disaster.

**Note:** *Eligible individuals who exhaust their benefits under other program(s) prior to the end of a declared disaster assistance period may claim DUA benefits.*

## 11.4 Definitions

### A. Unemployed Worker

For DUA purposes, an unemployed worker is one who worked in or was scheduled to begin work in the major disaster area at the time of the major disaster and whose



principal source of income and livelihood is dependent upon the worker's employment for wages. The claimant's full or partial unemployment will be considered to be caused by the major disaster if, as a direct result of a disaster, the claimant:

1. 1. Has a week of unemployment following the "date the major disaster began" or
2. 2. Is unable to reach the place of employment or
3. 3. Was to have started work and does not have the job or is unable to reach the job or
4. 4. Cannot work because of an injury caused as a direct result of the major disaster or

**Note:** The injury must have occurred during the actual incident (See 11.3G). Injuries occurring after the disaster incident, such as post incident clean-up, is deemed as resulting indirectly from the disaster and does not qualify the individual for DUA benefits.

4. 5. An individual has become the breadwinner or major support for a household because the head of household died as a direct result of the major disaster.

**Note:** For DUA purposes for an individual to become the breadwinner or major support for a household because the head of household died, the individual generally must share the same household with the head of household and be related by blood, marriage, adoption, or other legal arrangement (based on State law of residence of the new breadwinner). In addition the deceased head of household must have provided, through employment for wages or self-employment, one-half or more of the household income or means of livelihood during the base period utilized for purposes of computing the DUA weekly entitlement or would have provided such income but for unemployment during the base period.

## **B. Unemployed Self-Employed Individual**

For purposes of DUA, an unemployed self-employed individual is an individual who was employed in or was to commence self-employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's performance or service in self-employment, and whose unemployment is directly caused by a major disaster. The unemployment of an unemployed self-employed individual is caused by a major disaster if:

1. 1. The individual has a week of unemployment following the "date the major disaster began" and such unemployment is a direct result of the major disaster or
2. 2. The individual is unable to reach the place where services as a self-employed individual are performed, as a direct result of the major disaster or
3. 3. The individual was to commence regular services as a self-employed individual, but does not have a place or is unable to reach the place where the services as a self-employed individual were to be performed, as a direct result of the major disaster or
4. 4. The individual cannot perform services as a self-employed individual

because of an injury as a direct result of the major disaster.

In some cases self-employed individuals can be substantially impacted by a major disaster even though they are still able to perform some of their customary services in self-employment. Such persons may be eligible for partial DUA payments. The determination of eligibility for partial payment would be based on hours of work performing services compared to the usual and customary hours of work had the disaster not occurred.

It should be noted that restorative or clean-up work which is necessary because of the disaster will not make an individual ineligible for DUA. Also, "salvaging" or other limited employment activity alone would not necessarily make an individual ineligible for DUA. Each individual situation must be evaluated on its own facts.

### **C. Unemployment as a direct result of the major disaster**

When considering the reason for unemployment, a worker or self-employed individual's unemployment is a direct result of the major disaster when the unemployment is an immediate result of the major disaster itself, and not a result of a longer chain of events hastened by the disaster or having a ripple effect throughout the economy. An individual's unemployment is a direct result of the major disaster if it resulted from:

1. 1. The physical damage or destruction of the place of employment or
2. 2. The physical inaccessibility of the place of employment due to its closure by the federal government, in immediate response to the disaster or
3. 3. Lack of work, or loss of revenues, by an employer or self-employed individual, of at least a majority of its revenue or income from an entity that was either damaged or destroyed in the disaster or an entity closed by the federal government.

**Note:** Individuals whose jobs are available and who have access to the job but who chose to stay out of work due to repair of a residence (their own or that of another) are not deemed unemployed as a direct result of the disaster and are not eligible for DUA.

### **D. Direct Causes of Unemployment**

The unemployment of the individual must occur on or after the beginning date of the disaster and be as a direct result of the disaster. The unemployment can occur after the ending date of an incident period determined by FEMA, but still be as a direct result of the disaster. An employed or self-employed individual who was in the disaster area at the time of the disaster as a visitor or tourist and was injured as a direct result of the disaster fits the definition in A and B above. Also, individuals who become breadwinners may be considered unemployed directly due to the disaster if the decedent died as a direct result of the disaster, even though the decedent did not normally work in the disaster area or travel through the area. The new breadwinner may or may not reside in the State where the major disaster occurred.

## **E. Migrant Workers**

In general, a migrant worker unemployed as a result of a major disaster is an individual who worked (or was scheduled to work) as an employee in the major disaster area at the time of such major disaster and, due directly to the major disaster, no longer has a job, or cannot reach the place of work, or cannot perform the job because of damage to the place of work.

Agricultural and other workers whose normal work depends upon movement from one area to another will be deemed living in the major disaster area for the purposes of DUA if their presence in such disaster area is consistent with the normal or reasonable migration required by their usual occupation. H2A migrant workers will not be entitled to DUA as they do not meet USDOL's definition of qualified aliens.

## **F. Date the Major Disaster Began**

Date the major disaster began means the date a major disaster first occurred, as specified in the understanding between FEMA and the Governor. This date is used to establish the "Disaster Assistance Period" beginning date.

## **G. Incident and Incident Period**

Incident means any condition which meets the definition of major disaster or emergency which causes damage or hardship that may result in a Presidential declaration of a major disaster or emergency. The incident period means the time interval during which the disaster-causing incident occurs. While a tornado might have a short incident period, a volcano could have an incident period lasting a year or more.

## **H. Date of the Disaster**

The date of the disaster is defined as the date the major disaster began, or if later, the date the individual became unemployed. This liberally construed definition thus can cause a DUA claim to be somewhat like a regular State unemployment claim wherein it is generally tied to the separation and claim filing date. For individuals who become unemployed months after the "date the major disaster began" it means more recent wages will be used in the computation of the DUA claim. The liberal definition does not however change the beginning and ending date of the "Disaster Assistance Period".

## **I. Disaster Assistance Period**

The disaster assistance period is the period beginning with the first week following the date the major disaster began, and ending with the 26<sup>th</sup> week subsequent to the date the major disaster was declared. For example, if a disaster occurs on Thursday,

the 18<sup>th</sup> of the month, the Disaster Assistance Period would begin the following Sunday on the 21<sup>st</sup> of the month. Thus, the week ending the 27<sup>th</sup> would be the first payable DUA week.

### **11.5 Registration for Work**

Applicants for DUA will register for work with ESC at the time the initial application is taken or at such time as the Agency may direct. Consideration will be given in situations where physical incapacitation or lack of transportation are due to the major disaster and prevent registration.

### **11.6 Benefit Rights Interview**

Like all unemployment insurance claimants, individuals applying for DUA benefits must receive a benefit rights interview. The interview will also include explanation of the following:

1. 1. Information explaining the DUA program. In addition, they are to be given or mailed Form DUA-1, *Disaster Unemployment Assistance Benefit Rights and Responsibilities*, which contains specific information about filing DUA claims.
2. 2. The eligibility requirements of DUA.
3. 3. The disaster assistance period and potential weekly assistance amount if they are found eligible.
4. 4. Reporting and filing requirements.
5. 5. The individual's appeal right from any adverse decision affecting the individual's application.

### **11.7 Exploring the Claimant's Eligibility for Other Kinds of Unemployment Insurance**

***Regardless of the reason for loss of employment, Disaster Unemployment Assistance benefits are payable only when an individual is not eligible for unemployment benefits under any other state or federal program.*** An individual's entitlement to other kinds of unemployment insurance (regular UI, interstate, combined wage, etc.) must be explored before a DUA claim can be taken. Follow current claims taking procedures to determine whether the individual is eligible for benefits under another program.

***Note:*** *Regardless of the separation reason or monetary eligibility, all potential DUA claimants who appear ineligible for benefits under any other state or federal program must still file a regular UI claim. Do not submit any DUA claim forms until all regular claim processes, including monetary and/or non-monetary determination appeals, are concluded.*

#### **A. Regular Program Claim**

Carefully question an individual residing in a disaster area to determine what kind of claim to file. Take the actions described in Item 1 or Item 2, as appropriate, based on whether the individual is unemployed as a result of the disaster.

#### ☐ 1. Separation Due to Disaster

- Backdate the regular program claim to the effective date of the disaster.
- Set an issue and complete Form NCUI 500E, *Able & Available Fact Finding Report*, if there is any question about the claimant's availability between the disaster date and the date the regular program claim was filed.
- Send the completed fact finding report to the Adjudication Unit in the central office. Forward any completed pay order cards to the Special Program Unit for processing.

#### ☐ 2. Separation Not Due to Disaster

- Follow normal antedating procedures to determine the correct effective date for the new regular program claim.
- Use DUA guidelines to determine the effective date for additional and reopened regular program claims. Follow current procedures to take and process these claims.

### **B. Prior Disqualification on Regular Program Claim**

If the claimant received an indefinite disqualification on a prior unemployment insurance claim, it will be necessary to determine if the claimant has sufficient earnings to remove the prior disqualification. If the disqualification can be removed, the claimant will receive regular program benefits. *DUA benefits will become payable to this claimant only if regular program entitlement is exhausted before the disaster unemployment assistance period ends.*

If the claimant cannot remove the indefinite disqualification, he is still potentially eligible for DUA benefits and a new DUA claim should be taken.

### **C. Subsequent Employment**

Review carefully any separation from employment which occurs after the original separation caused by the disaster to determine if the claimant's latest unemployment is still a result of the disaster. If the claimant's unemployment can no longer be attributed directly to the disaster, then all DUA entitlement ends. A non-monetary determination notifying the claimant of the termination of benefits will be issued by the Special Programs Unit.

The following examples illustrate situations in which a DUA claimant returns to work and is subsequently separated and how that separation impacts on DUA.

- If a claimant returns to work to assist in disaster related clean-up and is laid off after the clean-up is completed, this subsequent separation is considered to be a direct result of the disaster. The claimant is eligible for DUA.
- If a claimant returns to work in his normal occupation and is later separated for economic reasons, e.g., all the work is completed, there are no further job orders, etc., this subsequent separation is considered to be due to lack of work rather than as a direct result of the disaster. The claimant is not eligible for DUA.
- If a claimant accepts any subsequent employment and is terminated due to inability, unsatisfactory work, lack of work, etc., this subsequent separation is not considered to be a result of the disaster. The claimant is not eligible for DUA.

## 11.8 Timely Filing of Initial DUA Application

An initial application for DUA benefits can be filed anytime within the declared disaster assistance period; however, to be considered timely, it must be filed within *thirty days* from the disaster declaration date. A fact finding report describing the reason for the late filing must be prepared for any DUA application taken after this period.

Reasons that are considered good cause for late filing include:

- the claimant was unable to report due to injury caused by the disaster;
- claimant was working during the 30 day period (in this case the claim must be filed within seven days from the date of separation); or,
- an agency employee caused the late filing; or,
- due to conditions in the disaster area the claimant is unable to access ESC services to file a DUA claim.

**Note:** Once the Agency has made announcement of the DUA Program availability through the media, it is the claimant's responsibility to make a timely application for benefits. The DUA regulations do not authorize State Law provisions defining 'good cause' for late filing to be utilized for determining 'good cause' for the late filing of a DUA application. The claimant's statement that he was unaware of the DUA Program availability would not be deemed 'good cause' under DUA regulations.

Contact the DUA Coordinator for further advice when in doubt as to whether a particular reason given for late filing constitutes good cause.

If Special Program Unit staff determine the claimant had good cause for late filing, his DUA claim will be allowed. Conversely, if Special Program Unit staff determine the late filing was not for good cause, the claimant's DUA application will be denied because it was not filed within the 30 day period.

The right to file a claim for DUA benefits cannot be denied to any individual, even if the individual is filing through an authorized legal representative, including the executor or executrix of the estate or an authorized legal representative filing on behalf of a claimant who may have been declared incompetent or incapacitated by the appropriate legal forum. The issue to be addressed is whether to approve such claim, thereby granting or denying DUA to an otherwise eligible claimant through the authorized legal representative.

The issue to consider is whether the claimant met the eligibility requirements during the period following the separation from employment caused by the major disaster and before the event leading to the establishment of the authorized legal representative status. As a condition for retroactive DUA payment to the authorized legal representative of the claimant or the estate, the Agency shall request some objective evidence about the claimant's unemployment, ableness for employment, and availability for employment during each week claimed. Any eligibility or ineligibility determined at the conclusion of each such week is not altered by the occurrence of subsequent events, such as death or incapacity, which may affect eligibility to future benefits. The fact that determinations with respect to the

retroactive weeks are made after the event (death or incapacity) does not alter the claimant's eligibility to benefits for any retroactive weeks in which the claimant met the DUA eligibility requirements prior to the event.

### 11.9 Initial DUA Claim

Initial DUA claims are normally filed in a local ESC office, by telephone or other location designated by the Agency as most convenient to the affected claimants. The agency can accept claims filed in such other manner, at such time and place as adopted to in as much as is possible keep rescheduling to a minimum and prevent so far as it can a delay in payments. When necessary, Agency staff may visit the perspective claimant in the hospital or at their home to take the initial application. It is often necessary to take such claims in person on paper as power outages and telephone outage prevents the taking of claims by normal automated means.

**Note:** FEMA requests that staff assigned to the Disaster Recovery Center not take claims at that location but rather answer questions and provide written information on ESC services.

To take a new application for DUA, complete the following forms:

#### A. Form ETA-81, Initial Application for DUA

Completion of Form ETA-81 is generally self-explanatory. Enter a three digit Dictionary of Occupational Titles (DOT) code in Block 1 and a two digit Standard Industrial Classification (SIC) code in Block 2.

**Note:** Form ETA-81 must be filed within 30 days after the declared disaster date to be considered timely.

#### B. Form ETA-81A, Supplement for Self-Employed Applicants

Complete Form ETA-81A for all claimants who were self-employed at the time of the disaster. Record any covered employment in both the base period *and* the 13-week period preceding the disaster. A self-employed individual must furnish proof concerning two items in regards to the business:

1. Existence of the business. A copy of the prior tax year return, Schedule C is acceptable as proof of existence. Other such proof could consist of but is not limited to, Privilege License or other business license, telephone book listing, lease for store front rental in the business' name, letters from professionals on retainer or contracted with for business services such as attorneys, accountants, et al. For Commercial Fishermen 'trip tickets' can be used.

**Note:** Contract employees who receive a Form 1099 are considered self-employed for purposes of DUA eligibility. As such the Form 1099 can be used to satisfy this requirement.

2. Net profit. An individual must provide a copy of their prior year tax return, Schedule C. An individual who became self-employed after the filing of their last tax return must provide business records (i.e. profit and loss statement), affidavits from the claimant or individuals having knowledge of the business' net profit.

**Note:** A claimant who can show proof of self-employment, but who cannot provide proof of his *net* earnings will only be eligible for the minimum weekly benefit amount.

### **C. Form DUA-2, Employment Certification**

Complete Form DUA-2 for all claimants who state they were not working at the time of the disaster, but would be working now if the disaster had not occurred and mail it to the perspective employer.

Review each DUA initial claim form for accuracy, completeness, and legibility. Assemble the completed claim forms in the following order: Form ETA-81, followed by Form ETA-81A (if issued), followed by any other required forms. Staple the form set together and route it to the Special Programs Unit.

**Note:** *If an individual wishes to claim any retroactive DUA weeks, question him carefully to determine his availability during that period. Complete a fact finding report if any potential availability issue is detected; route the fact finding report to the Special Programs Unit.*

## **11.10 Verification of Questionable Claims**

Any questionable DUA claim must be investigated and cleared by designated Agency staff before DUA benefits can be paid. Any questionable DUA claim will be held in the Central Office until the investigation is completed.

### **A. Definition of Questionable Claims**

Questionable claims that must be investigated include:

1. 1. all claims where the claimant was not working at the time of the disaster, but states that work would have been available if the disaster had not occurred;
2. 2. all claims based on self-employment;
3. 3. all claims where the claimant is suspected of making fraudulent statements; and,
4. 4. all claims where there is any doubt about eligibility, such as claims where the wages listed on the claimant's affidavit of employment are not found on the wage record file; claims where the claimant's affidavit lists an employer who is not found in the employer master file; claims where the earnings reported by the claimant during the prior 13 weeks are not consistent with base period earnings; and, claims where the claimant is a full-time student.

Local office staff, DUA emergency center staff, or Special Programs Unit staff may initiate verification requests. However, only designated staff will actually investigate questionable claims.

### **B. Investigation Reports**

The agency staff member assigned to investigate a questionable claim may enter his findings on the back of Form ETA-81A or Form DUA-2, or prepare a brief written



report, as appropriate. The investigators signed and dated report is to be forwarded to the Special Programs Unit.

#### **11.11 Monetary Determination**

The Special Programs Unit in the central office determines monetary eligibility and prepares Form ETA-82, *Notice of Determination of Entitlement*, for each initial DUA claim. Wages from covered employment (including wages earned in NC and any other State and also UCX and UCFE wages), non-covered employment, and self-employment will be used in determining the weekly assistance amount payable under DUA. The weekly assistance amount shown on Form ETA-82 can be computed by using either the base period in effect at the time of the disaster or the 13 week period immediately preceding the disaster. The base period for a DUA claim is the most recent tax year that has ended at the time claimant's unemployment as a direct result of the disaster began.

**Note:** Disaster events such as flooding may occur where one location may be affected in December and another is not affected until sometime in January. This can cause the base period to be different for different individuals. The base period for an individual claim is not governed by the date of the disaster declaration or by the disaster period beginning date. The base period can be different for individuals within a disaster area, within a county or even within the same company. The timing of the disaster circumstances that caused the individual's unemployment determine the starting date of that individual's DUA claim and thus control what base period is used on the claim.

The minimum weekly DUA amount will be 50 percent of the AWBA paid in the State for regular compensation, unless workers are customarily or routinely employed less than full-time prior to their unemployment due to the disaster.

#### **11.12 Requests for Reconsideration**

If a claimant requests reconsideration of his DUA monetary determination, take the following actions.

Prepare a revised Form ETA-81 indicating the reason for the reconsideration request. If the claimant has proof of his earnings, attach a photocopy of that proof to the completed form. If the claimant cannot provide any proof of his earnings, request that a Field Tax Auditor be asked to investigate the information shown on the revised form.

Batch Forms ETA-81 requesting monetary reconsiderations separately; attach a note to the batch indicating that it contains requests for reconsideration. Route the documents to the Special Programs Unit for processing.

#### **11.13 Non-Monetary Determinations**

If a claimant's unemployment is not a direct result of a declared disaster, the Special Programs Unit will issue an appealable non-monetary determination denying DUA

benefits to the claimant.

Special Program Unit staff will also issue appealable non-monetary determinations in those cases where (1) there is a question of timely filing of the initial application, (2) there is a question of availability when retroactive weeks are claimed, (3) the claimant cannot remove an indefinite disqualification on a regular program claim, (4) a questionable initial DUA claim cannot be cleared, and (5) a weekly DUA claim is denied or benefits are reduced.

#### **11.14 Continued DUA Claims**

DUA benefits are claimed and certified on a weekly basis; therefore, a DUA claimant must file a weekly certification each week. Whenever a claimant's unemployment can no longer be attributed to the disaster, entitlement to DUA benefits ends.

DUA benefits **cannot** be paid for any week in which a claimant: (1) is disqualified; (2) has excessive or disqualifying income; (3) is employed or unavailable for work; or (4) is ineligible for compensation or waiting period credit for any other reason.

Office staff should ensure that the claims of individuals who were incapacitated as a direct result of the major disaster are completed and processed in a timely manner.

##### **A. Able and Available**

Unless incapacitated by injury directly related to the disaster, a DUA claimant must meet the able and available requirements of the Employment Security Law. Therefore, the claimant must actively seek work and maintain a record of each employer contact on Form NCUI 506E, *Work Search Record*.

When recommending the number of employer contacts that a DUA claimant must make each week, local staff involved in the claims taking process should keep in mind the reduced number of available job opportunities. Contacts with the Job Service or with the former employer are valid work search efforts.

An unemployed self-employed applicant will not be considered unavailable for work if they are engaged in activities solely for the purpose of resuming self-employment. So long as an unemployed self-employed individual is actively engaged in resuming self-employment they will not be required to seek work.

**Note:** The Local Office Manager retains the authority to suspend the work search requirements in his local office area. It is assumed that work search would be suspended for the first four weeks following a major disaster but that decision is the manager's to make.

##### **B. Deductible Income**

All provisions of state law regarding the processing of income such as retirement pay, wages in lieu of notice, vacation pay, etc., apply to DUA claims. Any earnings from part time jobs are reportable (gross amount) and those earnings in excess of

the earnings allowance will reduce weekly entitlement. Any weekly income from self employment (i.e. sale of crops or sale of catch) must be reported as the total gross income.

### **C. Form ETA-83, Weekly Request for Assistance**

The claimant may complete Form ETA-83 at home and return it to the local office or send the form via mail or fax directly to the Special Programs Unit in the Central Office. Forms returned to the local office should be forwarded to the Special Programs Unit for review and payment.

### **D. Reduction/Denial of Benefits**

If Special Programs Unit staff reduce a DUA claim for any reason, Form ETA-83 will be returned to the claimant along with an explanation as to why the claim was reduced. Any issue with the potential of ineligibility would result in a non-monetary determination being issued. The claimant can appeal this determination in the usual manner.

## **11.15 Eligibility Review**

### **A. Unemployed Worker**

Form NCERP-1, Eligibility Review Profile, will be completed at the time of the initial DUA application and will be reviewed every four weeks. During the review process the consultant will assess the applicant's efforts to return to work and determine if the applicant continues to be unemployed as a direct result of the major disaster.

### **B. Unemployed Self-employed Individual**

In the case of an unemployed self-employed individual, Form DUA-3, Eligibility Review for Self-employed Individual, will be completed at the time of the initial DUA application and will be reviewed every four weeks. The review process will center on what actions has the individual taken to return to self-employment and if the individual's unemployment is still a direct result of the major disaster.

**Note:** Any persons filing regular State UI claims as a result of the major disaster may be exempted using the daily ERI scheduler. The resolution code PI should be used to enable the claimant to stay in the regular scheduling cycle.

## **11.16 DUA Appeals**

Federal regulations applicable to the appeal of DUA non-monetary determinations and first-level appeals decisions are discussed in the following paragraphs.

### **A. Appeal of DUA Non-monetary Determination**

DUA regulations allow a claimant **60** days to appeal an unfavorable determination. Any DUA appeal filed in the local office should be forwarded immediately to the Special Programs Unit. Appeals can be filed by any method allowed by the Agency

for the filing of appeals to regular UI claims. If the appeal is not filed in person then it is the claimant's responsibility to correctly route the appeal to the Special Programs Unit. After all appropriate documents are collected the claim assembly will be routed to the Special Deputy Commissioner for a hearing and decision.

## **B. Second-Level DUA Appeal**

A DUA claimant likewise has **60** days to file a timely request for review of a first-level appeal decision. The review of a first-level appeal DUA decision is performed by Atlanta Regional Office staff of the USDOL Employment and Training Administration.

The claimant may file a written appeal in person through any local office or mail it directly to the USDOL Regional Administrator. The local office should forward any appeal they receive to the Special Programs Unit for processing and forwarding to the Regional Office.

## **11.17 Fraud and Overpayment**

Methods and procedures used by the Agency to prevent fraudulent payments and to detect other possible violations in other claim programs are equally applicable in preventing or detecting violations of DUA requirements.

Benefit Payment Control Unit staff will conduct investigations, prepare reports and issue determinations on DUA overpayments. All documents and related correspondence will be marked "DUA" and a copy of each routed to the Special Programs Unit.

### **A. Overpayment Determinations**

A Fraud Adjudicator in the Benefit Payment Control Unit determines whether a DUA overpayment is fraudulent and issues a determination accordingly. Form NCUI 581 must be attached to the claimant's copy of the decision.

### **B. Disqualifications for Fraud**

Any claimant who makes or causes another person to make a false statement or misrepresent a material fact, knowing it to be false, or who knowingly fails or causes another person to fail to disclose a material fact, in order to obtain or increase for the claimant or for any other individual, a payment of DUA benefits to which the claimant or other individual is not entitled, will be disqualified as follows:

#### **1. False Statements on Initial Application**

If a DUA claimant is found to have made a false statement pertaining to the initial application of DUA, he will be disqualified from receiving DUA benefits. If the false statement, misrepresentation, or non-disclosure, was made on behalf of another individual and was known by this other individual to be false, then this other individual will be disqualified from receiving DUA benefits.

#### **2. False Statements on Weekly Certification**

If a DUA claimant is found to have made a false statement while claiming a week of DUA benefits, he will be disqualified from receiving DUA for that week and the next two compensable weeks immediately following that week, provided the claimant was otherwise entitled to DUA benefits for those weeks.

### **C. Recovery of Overpayments**

Efforts to recover DUA overpayments do not begin until the overpayment determination or subsequent appeal, if any, becomes final.

If the Agency or a court of competent jurisdiction finds that a claimant received DUA benefits to which he was not entitled (whether or not the payment was due to the claimant's fault or misrepresentation), the claimant must repay all benefits to which he was not entitled. The Agency will take all reasonable measures authorized under State or Federal law to recover these overpayments.

The Agency may recover part or all of the overpayment by deductions from any remaining DUA payable to the individual, or from any other compensation payable to the individual under any unemployment compensation law administered by the Agency.

1. Cash Repayment

Established procedures will be used to process cash repayments; however, the receipt must be noted "DUA".

2. Offset

A fraud disqualification is posted to the Benefit Payment System if a claim is on file and offsets are automatically performed when a week is claimed.

Since DUA claims are processed off-line, overpayment offsets are processed jointly by the Special Programs Unit and the Benefit Payment Control Unit and documented in a properly maintained ledger.

3. No Waiver of Overpayments

Federal regulations prohibit the waiving of DUA overpayments.

### **D. Criminal Prosecution and Penalties for Fraud**

The Commission may elect to bring criminal charges against an individual who fraudulently obtains DUA benefits. If federal prosecution is recommended, the case will be referred to the appropriate office of the Federal Bureau of Investigation (FBI). If federal prosecution is not recommended, or if the U. S. Attorney declines prosecution, action may be taken in the State courts.

The Robert T. Stafford Disaster Relief Act provides that anyone who knowingly and willfully falsifies or conceals or covers up by any trick, scheme, or device, a material fact, or who makes or uses any false written document knowing it contains false, fictitious or fraudulent statements can be fined up to \$10,000 or imprisoned for up to one year or both.

### **11.18 End of DUA Period**

A *Notice of Final Payment* will be inserted with the final check mailed to a DUA claimant.

If, for some reason, a DUA period is subsequently extended, a notice of this extension will be mailed to each DUA claimant who received a final payment notice.

Special instructions for closing DUA centers will be issued at the end of a DUA period.

### **11.19 Statistical Reporting**

Local office staff must prepare any required statistical reports in accordance with instructions issued at the beginning of the DUA period. These reports are to be submitted to the DUA Coordinator.

The Special Programs Unit will prepare and maintain a number of statistical reports in connection with DUA filing. These reports will include the DARIS (Disaster Automated Reporting and Information System) report, number of DUA claims by county and a weekly tally of claims filed and benefits paid.

A statistician in the LMI division will collect needed data and prepare required State and Federal reports.

### **11.20 Time Distribution Charges**

Time distribution codes applicable to DUA activities are published at the beginning of each new DUA period. DUA program administration and benefit costs are funded by FEMA.

## ***Chapter 12 Unemployment Insurance Claims for Commercial Fishermen***

### **12.1 Introduction**

Employees of commercial fishermen do not have established hours of work; therefore, special provisions of the Employment Security Law apply to workers who are attached to the payroll of a fishing firm but work less than full-time.

Commission Regulation 9.12 (B) state "A commercial fisherman is deemed to be employed during the entire time he is on the fishing boat, regardless of whether fish are caught and during the time he is assigned shore duties. To be considered partially unemployed, a commercial fisherman must be employed less than three different days during any payroll week irrespective of the number of hours employed during any day or the total hours employed during the three-day period."

### **12.2 Attached Unemployment**

If an individual who reports to file a claim as a commercial fisherman on temporary layoff meets the requirements of the cited regulation, take the claim in accordance with the attached claim procedures described in Chapter 3 of this manual.

### **12.3 Separated Unemployment**

If an individual who wishes to file a claim as a commercial fisherman cannot meet the definition found in Commission Regulation 9.12 (B), he must file as a separated claimant. Take the claim using the procedures for separated UI claims described in Chapter 3 of this manual.

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## **Chapter 13 Unemployment Insurance Claims for Longshoremen**

### **13.1 Introduction**

Longshoremen are a unique group of workers who are not employed by any one shipping company, but who are assigned work by their unions. Eligibility requirements for longshoremen who claim unemployment insurance are essentially the same as for other claimants; however, special provisions have been adopted for processing longshoremen claims.

### **13.2 Definition of Longshoreman**

To qualify as a Longshoreman for unemployment insurance purposes the claimant must have earned 60% of his base period wages on the current claim from employers on the waterfront. The claimant must be a member of the Longshoreman's Union and their most recent employment must be as a Longshoreman. If any of the three conditions are not met then the claim must be taken as a regular UI claim.

### **13.3 New Claims**

When a longshoreman reports to the local office and requests to file a new claim for unemployment insurance because he has worked less than three customary workdays, take the following actions:

- Take a new claim in accordance with the procedures used to take a new UI claim (see Chapter 3 of this manual). When entering the B1 enter a claim type of 'L' and set the ERI interval at '00'. This causes the system to not generate the NCUI 500AB to the most recent employer. *Although a longshoreman does not have to perform a work search, a partial registration for work must be completed in order to obtain information needed to enter the claim into the Benefit Payment System. An ERI form (either paper or electronic) should be completed to detect possible issues.*
- Claim record files are prepared and maintained for longshoremen in the same manner as for other claimants. It is advisable to make a copy of the worker's "ID badge" or "Union ID Card" and keep it in the claim file. The "badge number" from this copy is needed when dealing with the longshoreman's employer on claims related issues. Use of the NCUI 505, Claim Record Folder, as a repository for claims documents is optional.
- When keying the B2, Initial Claim Employer Information, enter "zeroes" for the employer account number and SIC code; enter "longshoreman" for the employer's business name, and enter the local office address for the employer's street address, city/state, and zip code.

**Note:** *If the claimant is a longshoreman but last worked in non-longshoremen employment, follow regular new initial claim procedures to take and process the claim. Provide each longshoreman filing a new claim with a NCUI 517L.*

## BPS Data Entry Screen References

B1 - Initial Claim Information B2 - Initial Claim Employer Information

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### **13.4 Reopened Claims**

A reopened claim is a certification to the beginning date of a subsequent claim series within an established benefit year. There are two types of reopened claims - additional initial claim (AIC) and no intervening employment (NIE) claims.

#### **A. Additional Initial Claim (AIC)**

Take an additional initial claim (AIC) whenever a longshoreman with a benefit year in progress has had a *break of one or more weeks in his claim series caused by employment* and wishes to reopen his claim. Follow the procedures for taking AIC's described in Chapter 3 of this manual.

#### **B. Reopened Claim (NIE)**

Take a no intervening employment (NIE) claim whenever a longshoreman with an existing benefit year has had a break of one or more weeks in his claim series for a reason other than employment and wishes to reopen his claim. Follow the procedures described for taking NIE's described in Chapter 3 of this manual.

## BPS Data Entry Screen References

B1 - Initial Claim Information B2 - Initial Claim Employer Information

### **13.5 Continued Claims**

Longshoremen are not required to actively seek work other than through the union. They may file continued claims either by telephone or by mail.

Caution longshoremen to report all wages received (whether from shipping companies or other sources) during each week that benefits are claimed. The payroll week ending for the various shipping companies vary but are normally on Sunday or Tuesday. Longshoremen are normally paid on Thursday or Friday. A longshoreman may work for several different shipping companies while unloading the same ship. All longshoremen claim week ending dates are adjusted to show the Saturday following the payroll ending date. To avoid confusion longshoremen are instructed to report their earnings in the week they are paid. This would include all earnings from non union employment. This is a departure from the rule of reporting earnings when earned rather than when received.

### **13.6 Questionable Claims**

The provisions of Chapter 6, *Issues and Adjudication*, are equally applicable to longshoremen. Refer questionable issues for adjudication in accordance with existing procedures described in this chapter.

## ***Chapter 14 Unemployment Compensation for Federal Employees (UCFE)***

### **14.1 Introduction**

Public Law 83-767, enacted by the Congress of the United States in 1954, amended Title XV of the Social Security Act to extend the unemployment insurance system to federal civilian employees. "Unemployment Compensation for Federal Employees", hereafter referred to as UCFE has its instructions contained in ETA Handbook 391. This handbook outlines the procedures for handling and payment of UCFE claims. Generally, benefits are provided for unemployed Federal Civilian employees in the same amount, terms and subject to the same conditions, as claims paid under the North Carolina Employment Security Law. In establishing a benefit year, UCFE wages may be combined with wages covered by a state unemployment insurance law and/or UCX wages (see Chapter 3 of this manual).

### **14.2 Evidence of Federal Civilian Employee Status**

When an individual leaves federal employment, they are given forms (described below) that contain information necessary to expedite the processing of an unemployment claim. The claimant should present these forms when reporting to file for benefits. **Do not refuse**, however, to take the claim because the forms are not available.

#### **A. Standard Form 8, Notice to Federal Employee about Unemployment Compensation**

A Standard Form 8 (SF-8) is given to each federal employee who is separated from, or is transferred to another payroll office, or who is in leave-without-pay (LWOP) status for seven or more consecutive days. This form which notifies the individual of possible entitlement to unemployment benefits also contains the address of the payroll office to which Forms ES-931 should be sent.

Verify the address on Form SF-8 to be certain that all necessary information is given: name of department or agency, FIC code, bureau, payroll office address, building or street and number, city, state, and zip code.

Certain intermittent employees, such as substitute postal clerks, crop insurance adjusters, and WAE ("when actually employed" - designates individuals paid on the basis of days actually worked) only receive Standard Form 8 the first time they are on the payroll in nonpay status.

#### **B. Standard Form 50, Notification of Personnel Action**

A Standard Form 50 (SF-50), or a modified document with a different form number, is given to each employee (with the exception of employees who are paid in cash) who is separated from a federal agency. This form contains information a state agency needs to determine an individual's potential entitlement to benefits and also

provides the employee identification information required on Form ES-931, *Request for Wage and Separation Information*, including: Social Security account number; nature of the personnel action; effective date; position title; salary rate at the time of separation; duty station; and, under "Remarks", when appropriate, the federal agency's reason(s) for separation and possible entitlement to federal civilian severance pay. "Duty Station" shows the claimant's actual duty station and is used to determine, for wage assignment purposes, his official station.

#### **14.3 Receipt of Severance Pay upon Separation from Federal Civilian Employment**

Federal agencies have been instructed to enter a notation as to entitlement for severance pay (total amount, weekly rate, and duration) in Remarks (Item 30) of SF-50. If the claimant presents a SF-50, examine it for a remark concerning severance pay. If the remark indicates that the claimant has no entitlement to severance pay, or if the period covered has ended, take the claim in the usual way.

If no remark regarding severance pay is found on the SF-50, or if the claimant does not present an SF-50, question him about any entitlement to severance pay. If questioning indicates that the claimant has no entitlement to severance pay, or that the period covered has ended, take the claim in the usual way.

If Standard Form 50, other documents, or questioning of the claimant reveals that the period covered by severance pay is currently in effect, process the claim in the same manner as a regular UI claim with a separation payment in effect. See Chapter 3 of this manual.

#### **14.4 Assignment of Federal Wages**

Federal wages are normally assigned to the state where the claimant had his last official station in federal employment. Exceptions to this rule are as follows.

- ⌚ Covered employment subsequent to federal civilian employment If, at the time of filing a "first claim", the claimant alleges to *reside* in a state in which it is determined he/she worked in covered employment after separation from his/her most recent federal civilian employment, that state is the state that his/her federal civilian service and wages will be assigned, even though his last official station was in another state. This applies regardless of the duration of the covered employment (can be as little as a portion of one day) and whether or not the employment was in the current base period.
- ⌚ Last official station outside the United States If the claimant's *last* federal official station was outside the United States, federal wages are assigned to the state in which he now *resides* and files a "first claim". The claimant must be personally present in the state at the time of filing the "first claim". The term "official station" means the state or country (if outside the United States) designated on Standard Form 50, or its equivalent, as the individual's "duty station".

The consultant is responsible, after careful consideration, for determining the state to which base period federal civilian service and wages are assigned. For UCFE claim

purposes, "state" means any of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. Federal wages assigned to one state may be used in another state *only* under the interstate wage-combining plan. In the absence of error, the assignment of federal wages to a state is permanent.

#### **A. Assignment of Wages to North Carolina**

If federal wages are to be assigned to North Carolina and a claim is to be filed against this state, refer to Section 14.7 of this Chapter for specific claims taking procedures. If the claimant is filing a remote (by telephone) interstate claim (North Carolina being the liable state) he must reside in the United States, Virgin Islands, Puerto Rico, DC or Canada. Canada is the only country with which the United States has a reciprocal agreement for the filing of unemployment claims. Claimants living in other countries can not legally file a valid claim for benefits and have federal wages assigned.

#### **B. Assignment of Wages to Another State**

If the federal wages are to be assigned to another state and the claimant is to file against those wages, refer to Section 14.10 of this Chapter for specific claims taking procedures.

#### **C. Assignment of Wages to State Other Than Where UI Wage Credits Are Available**

If federal wages will be assigned to a state other than the one in which UI wage credits are available in the current base period, the claimant may choose to: (1) file a UCFE claim against the state where wages are assigned, (2) file a UI claim against the state where he has UI wages, or (3) file a combined wage claim.

### **14.5 Retirement Pay and Disability Pensions**

If the UCFE claimant is receiving a pension from the Civil Service Retirement System (CSRS), and the current benefit year is based wholly or in part on UCFE wages, then the pension must be deducted from the claimant's weekly benefit amount in accordance with instructions found in Chapter 5 of this manual. COLA adjustments are made to such pensions effective December 1 each year and deductions from UI benefits must be adjusted accordingly.

**NOTE:** Retirement pay from the Federal Government is deductible on all UCFE and UCX claims or any combination thereof involving wages from the military or federal civilian service. "For the purpose of deducting federal retirement and annuity payments from UCFE benefits all federal civilian and military agencies are a single employer – the United States." The concept is that the Federal Government is a single employer; therefore, retirement pay from the military is reportable on a UCFE claim.

If the reason for separation from the Federal Agency is a disability and the claimant will receive or is receiving a disability pension from the Federal Government, then the pension should be entered just as another pension and it will be deducted from the WBA.

#### 14.6 Benefit Rights Interview

Give each new UCFE claimant a benefit rights interview in accordance with the procedures described in Chapter 2 of this manual.

#### 14.7 New Intrastate UCFE Claims

Take the new initial intrastate UCFE claims, (or any combination thereof), in accordance with the new initial claims taking procedures described in Chapter 3 of this manual.

**Note:** *If the claimant has UCX wages in the base period, he cannot establish an intrastate straight UCFE claim or an intrastate UI-UCFE claim; all base period federal service and wages (civilian and military) and wages from NC covered employment must be used if any portion is used.*

Summary of actions required to take a new UCFE claim:

1. Complete required entries on Screens B1 and B2. The Federal employer tax number needed on Screen B2 can be obtained from the employer tax system, but the consultant **must** enter the address where the claimant last worked prior to separation.

**Note:** The Benefit Payment System will display the ESC Central Office address for Federal employer tax numbers and the consultant **must** overtype the address with that of the Federal Agency.

2. Prepare Form ES-931, *Request For Wage And Separation Information – UCFE*. Access the B.85 screen. Using option 6 and the three digit FIC code as shown on Form SF-8 locate the destination code for the address shown on the SF-8. Returning to the B.85 screen and entering option 1 with the SSN and BYB the consultant can access the electronic version of the ES-931. The ES-931 is sent (whether electronically or by the Postal Service) by the Central Office and the federal agency response is returned to the UCFE Unit in the Central Office.

- ☐ 3. The consultant must access the agency intranet site and complete, date and have claimant sign Form ES-935, *Claimant's Statement of Federal Civilian Service, Wages, and Reason For Separation*, for each Form ES-931 prepared. Give the claimant a copy of each completed Form ES-935.

☐ **Note:** When the claim is taken remotely (by telephone) the consultant must complete items 2 through 8 and enter the four quarters and year of the base period in item 9.b. The form is then mailed to the claimant for completion, signature, date and return to the address provided in item 1.

- ☐ 4. The original of each Form ES-935, and a photocopy of any wage substantiation

documents (Such as Forms SF-8, SF-50, W-2, or check stubs) must be sent to the UCFE Unit in the Central Office.

□ **Note:** Carefully review this form because it is used to make a determination of eligibility pending a reply to Form ES-931. When it becomes necessary to estimate wages because claimant does not have substantiating documents, advise the claimant to underestimate the quarterly wages paid in order to prevent an overpayment on the claim. Any adjustment check necessary will be sent to the claimant upon receipt of the ES-931 reply.

2. 5. Retain a copy of ES-935 and supporting documents in the local claim record file.

### BPS Data Entry Screen References

B1 - Initial Claim Information B2 - Initial Claim Employer Information

## **14.8 Monetary Determinations**

A UCFE monetary determination requires information from both the local office and the Central Office UCFE Unit. The monetary determination process is described below.

### **A. Form NCUI 550L, On-Line Wage Transcript and Monetary Determination**

If the consultant elects to print Form NCUI 550L for presentation to the claimant when the initial claim is filed, the system will automatically generate a monetary determination. This monetary determination includes only UI wages and any lag wages from a previous federal wages assigned to NC that fall within the base period.

### **B. Monetary Determination - Central Office Function**

Upon receipt of Form ES-935 and related documents (such as SF-8, SF-50, W-2, check stubs, etc.), the UCFE Unit:

1. 1. Examines all documents to ensure proper completion.
2. 2. If the ES-931 is sent electronically, then Form ES-935 wages are held for seven calendar days awaiting a response. If there is no response in seven calendar days, the ES-935 wages are keyed into the system using Screen W4--Add Wage. If the ES-931 is sent through the Postal Service, then Form ES-935 wages are held for twelve calendar days awaiting a response. If there is no response in twelve calendar days, the ES-935 wages are keyed into the system using Screen W4-Add Wage.
3. 3. Entry of Form ES-935 wages causes the system to generate a *revised* monetary determination.

When responses to Forms ES-931 is received, the UCFE Unit will correct, if necessary, the UCFE wage data already entered into the system. Any such corrective action will cause the system to generate and mail a revised monetary determination to the claimant.

**Note:** *The system automatically sets up any overpayment caused by amended wage data. It also automatically issues and mails any adjustment checks due as*



a result of amended wage data.

#### BPS Data Entry Screen References

W1	-	Wage	Change	W4	-	Add	Wage
W2		-		Delete			Wage

#### **14.9 Claimant Disagrees with Federal Findings and/or Monetary Determination**

Explain the claimant's monetary determination to him if he does not understand it. If the claimant disagrees with the information shown on an *intrastate* monetary determination and wishes to appeal, take the following actions:

1. Prepare Form UIC 72, *Protested Claim or Wage Transcript*.
2. Write "UCFE" in *red* across the top of the form.
3. Attach a photocopy of any wage substantiation documents to Form UIC 72 and route the assembly to the central office in a white envelope marked "UCFE".

If necessary, the UCFE Unit will send Form ES-934, *Request for Information or Reconsideration of Federal Findings - UCFE*, to the appropriate federal agency.

**Note:** *If an Interstate UCFE Claimant, desiring to protest the monetary determination issued by another state, requests assistance from the agent state, follow the same procedures listed in Chapter 9 of this manual.*

#### **14.10 New Interstate UCFE Claims**

If UCFE wages are to be assigned to another state, take an interstate initial UCFE claim in accordance with the manner the state requires.

Supply the claimant with the telephone number of the state if they take interstate claims in a call center environment.

If it is necessary to file the claim through ICON, enter the data on the B.81 screen. After entering the Federal employer's payroll address key a 'y' in the field 'UCFE employer'. This brings forward the third screen so that the UCFE service data may be entered. Do *not* complete Form ES-931; the other state will prepare and send this form to the appropriate federal agency. Unless requested by the liable state, do not prepare Form ES-935, *Claimant's Statement of Federal Civilian Service, Wages, and Reason for Separation*. If requested prepare the ES-935 in triplicate and have the claimant complete the form, sign and date it. Send the original to the liable state with any substantiating documents, give the claimant a copy and retain a copy in the local claim record file.

#### BPS Internet Subsystem Screen References

80 - Internet System-wide Main Menu    82 - Internet IB-13 Main Menu

### 14.11 New UCFE Combined Wage Claim

New UCFE Combined Wage Claims are filed in accordance with the procedures contained in Chapter 10 of this manual.

If the UCFE wages have already been assigned to another state, the claimant has a prior benefit year there that has expired or exhausted, key IB-4 requesting the lag wages that may be available for transfer. Enter the following statement in the comments section of the IB-4, "Please transfer any and all UCFE wages from prior claim filed in your state on (DATE the prior claim was filed)". This is necessary because some states have subsystems or other such places to store UCFE lag wages rather than having them available on their primary system. When doing the B1 transaction a combined wage program code that includes UCFE must be used. The usual UCFE documents are not required.

If the UCFE wages are assignable to another state but have not yet been assigned, key the IB-4 requesting assignment and transfer. When completing the IB-4 employer data section take special care to complete the federal civil service data fields. The last entry in this section asks if the claimant has had "Covered Emp FS"? A 'yes' answer would indicate that claimant has had covered employment in North Carolina following the UCFE employment in the other state. If the claimant has had such employment then an IB-4 is not applicable. The UCFE wages in this case are assignable to North Carolina (see section 14.4 A of this manual).

### 14.12 Reopened Claims

Take all reopened claims (UCFE or any combination thereof) in accordance with the procedures described in Chapter 3 of this manual. In addition, if the separation was from federal employment, complete and mail Form ES-931A, *Request for Separation Information for Additional Claim -UCFE*, by accessing the B.85 screen.

### 14.13 Intrastate UCFE Continued Claims

An intrastate UCFE claimant can file his continued claims by mail, internet or by telephone. The procedures described in Chapter 5 of this manual apply to UCFE continued claims.

### 14.14 Interstate UCFE Continued Claims

The UCFE claimant who establishes a new interstate benefit year will receive filing instructions from the liable state. However, North Carolina staff should respond appropriately to any request for assistance by an interstate claimant (refer to Chapter 9 of this manual).

#### **14.15 Partial and Part-Total Benefits**

The amount of benefits paid to a claimant for a week of less than full-time employment is determined in the same manner and according to the same requirements applicable to a regular unemployment insurance claim.

#### **14.16 Referral of Questionable Issues**

Regular procedures for recognizing and referring questionable UI claims also apply to UCFE (or any combination thereof) claims.

**Note:** *Fact finding reports for UCFE claimants who left employment due to loss of sponsorship shall be deemed to have good cause for leaving work. If a claimant presents a copy of the spouse's military transfer orders and the separation date was on or after the date the orders were issued, no issue should be set concerning the claimant's separation.*

*If the last day worked occurred prior to the loss of sponsorship, an issue must be raised. The fact finding report must include a narrative explanation as to why the claimant left prior to such loss. A copy of the military orders should be attached to the fact finding report.*

#### **14.17 Processing Non-monetary Determinations – A & A Issues**

Non-monetary determinations for UCFE claimants are processed in essentially the same manner as for UI claimants.

#### **14.18 Investigation of Possible Fraud**

The fraud provisions in Section 96-18 of the *Employment Security Law* apply equally to UCFE (or any combination thereof) claims. Staff should promptly report any suspected case of fraud to the Benefit Payment Control Unit in the Central Office.

#### **14.19 Retention of UCFE Records**

All UCFE (or any combination thereof) claim records must be retained for three years after the last action affecting the claim. This includes any appeal or court action relevant to the claim.

## **Chapter 15 Unemployment Compensation for Ex-service members (UCX)**

### **15.1 Introduction**

Public Law 85-848 enacted by Congress of the United States in August, 1958, amended Title XV of the Social Security Act to extend the unemployment insurance system to ex-service members of the armed forces. This extension is known as "Unemployment Compensation for Ex-service members", hereafter referred to as UCX. The procedures for payment of UCX claims are outlined in ETA handbook 384.

### **15.2 General Qualifications**

To be entitled to UCX benefits, an ex-service member must have served on active duty (not including active duty in reserve status unless for a continuous period of 90 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration under the following conditions:

- A. The individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); **and**
- B. The individual was discharged or released after completing his initial contractual obligation, **or**
- C. The individual was discharged or released before completing such contractual obligation for one of the following reasons:
  - 1. 1. for the convenience of the Government under an early release program,
  - 2. 2. because of medical disqualifications, pregnancy, parenthood, or any service-incurred injury or disability,
  - 3. 3. because of hardship, or
  - 4. 4. because of personality disorders or inaptitude, but only if the service was continuous for 365 days or more.

For straight UCX claims, an individual meeting the above requirements can file an initial claim immediately after release from military service (providing all accrued leave and separation payments have expired). The state-required one week waiting period applies to UCX claims.

### **15.3 Evidence of Active Federal Military**

DD Form 214, *Report of Separation from Active Duty*, (or DD Form 215, *Correction to DD Form 214*) is the only acceptable document (original, laser printed copy, authentic copy or photocopy) that can be used as evidence of active military service. DD Form 214 is a multi-copy form with eight copies to a set. Each service member is given copy No. 1 at the time of discharge. The ex-service member must request copy No. 4 from the branch of service upon separation. The local office Consultant

should request and use Copy No. 4 to obtain the military service information necessary to make eligibility determinations for ex-service members. *However, no UCX claim should be denied solely because the ex-service member fails to present Copy No. 4 of DD Form 214.*

If the ex-service member cannot produce Copy No. 4, then the claims taker may utilize any other **certified copy** of DD Form 214 except Copy No. 1 which does not contain all required service information and, therefore, cannot be used in making UCX eligibility determinations. Since the military does not normally issue originals of these other copies of DD Form 214, claims takers must verify the issuance of an original Copy No. 2, 3, 6, 7, or 8 presented by an ex-service member by completing Form MA 8-43, *Request for Military Document/Information for Unemployment Compensation Purposes - UCX*.

**Note:** Occasionally, ex-service members may present claims takers with "merged" copies of DD Form 214. These "merged" copies occur when someone makes a photocopy that overlays Copy No. 1 on top of Copy No. 4 such that the resulting copy is the top part of Copy No. 1 and the bottom part of Copy No. 4. "Merged" copies of DD Form 214 may be used for claim purposes only after verification by the  
Federal Claims Control Center.

#### **15.4 Examination of DD Form 214**

Examine each DD Form 214/215 carefully and take appropriate action in accordance with the following paragraphs:

##### **A. Identification of Claimant**

The consultant must establish that the claimant is the person named on DD Form 214. Compare the signature on DD Form 214 with the signature on the Social Security card, or on any other identifying papers that may be presented. Also, compare the Social Security number shown on DD Form 214 with the number on the Social Security card. If there is any doubt that the claimant is the person named on DD Form 214, make a further identification check by asking questions about data on DD Form 214 concerning military service, such as schools attended while in service, etc.

##### **B. Contractual Obligation**

Examine DD Form 214 and question the claimant thoroughly to determine whether he (1) fulfilled the contractual obligation agreed upon when he entered service or (2) was discharged before the contractual obligation was completed. See **Note** below.

If entries on DD Form 214 do not clearly show that the individual completed the contractual obligation, enter the data on Screen B6--UCX Wage Calculations required to generate Form MA 8-43, *Request for Military Document/Information for Unemployment Compensation Purposes -UCX*. If on-line printing is selected, the system will automatically generate three (3) copies of this form with all items

completed. If on-line printing is not selected, manually prepare three copies of the form completing the mailing address and Sections I and II of the form. Mail two copies of Form MA 8-43 to the appropriate branch of military service.

Before benefits can be paid, the appropriate branch of military service must determine (1) if the individual actually completed his contractual obligation and (2) if the reason for and type of discharge prohibits the individual from meeting the federal service criteria for UCX benefits.

**Note:** *Some branches of military service, particularly the Air Force, have varying contractual obligations, i.e. three, four or six years, etc. If a service member was discharged before the agreed upon contractual obligation was completed, he is eligible for UCX benefits only if the early discharge was granted for one of the non-disqualifying reasons listed in Section 15.2 of this chapter.*

### **C. More Than One Term of Service**

If the claimant had more than one term of service, ask him for DD Form 214 for his initial contractual obligation. If the claimant has it, verify that he fulfilled that contractual obligation. Retain a copy of this form in the claim record file.

If the ex-service member does not have DD Form 214 from his first contractual obligation, ask questions to determine if the obligation was completed. *Form MA 8-43 must be completed and sent to the appropriate branch of service to verify this information.* If no other data is being verified, check "Other" for the reason and ask the question "Did the ex-service member complete initial enlistment?"

The character of service and separation reason from the first contractual obligation are used to determine the ex-service member's eligibility for UCX benefits if he served less than the minimum period during his most recent term of service. The pay grade and period of service shown on the most recent DD Form 214 are used to calculate the amount of benefits. For service members who have continuous service beyond the first contractual obligation (no break in service) only one DD Form 214 is issued. If there is a break in service then the ex-service member will be issued a DD Form 214 for each period of service. The ESC office should retain a copy of the most recent DD Form 214 and any others that may be in the base period of the claim.

### **D. Accrued Leave**

During a period of active military service, a service member may accumulate leave which he does not use. When he separates from service, he receives a lump sum (accrued leave) payment for any unused leave.

The separating branch of the military service specifies the number of days covered by an accrued leave payment (or indicates "none or 0", if applicable) on DD Form(s) 214/215. If the period covered by the accrued leave payment has not ended, the accrued leave payment is treated a little differently than on a regular UI claim. The accrued leave is applied to a straight number of days following the separation day without regard to

whether the days are weekends or holidays. The accrued leave information shown on DD Form(s) 214/215 must be accepted. If the claimant contends that it is incorrect, access Screen B6 and enter the data required to generate Form MA 8-43; mail the form to the appropriate branch of military service to verify the accrued leave information.

**Note:** *Readjustment payments are not considered accrued leave payments. Ignore any notation on DD Form(s) 214/215 concerning "Excessive Leave" because any excess leave is included in the period of active service.*

## **E. Separation Payments**

Due to a reduction in the size of the armed forces, the Department of Defense may from time to time discharge or release some military personnel who would prefer to remain in the armed forces.

As a result, certain regular enlisted personnel, as well as officers, who are involuntarily released from service, may receive separation pay. Regular enlisted personnel are defined as "regular members of an armed force, who have completed six or more, but less than 20 years of active service and who are discharged involuntarily, or who are released as the result of the denial of their reenlistment". DD Form 214 issued to these individuals contains the notation "Separation Pay" and the amount of the payment is shown in the REMARKS section of the form.

Examine DD Form 214 to determine whether the ex-service member has received separation pay. UCX separation payments made to officers or enlisted personnel are subject to the same terms and conditions applicable to any separation payment under the provisions of the Employment Security Law. Follow current procedures regarding separation payments when processing a new UCX claim.

### **BPS Data Entry Screen Reference**

B6 - UCX Wage Calculations

## **15.5 Assignment of UCX Service and Wages**

Federal procedures require that all federal military service and wages be assigned to the state in which a "first claim" is filed if a benefit year is established. The term "first claim" means the first claim filed after the claimant's most recent separation from federal military service. The claim can be UI, UCFE, UCX or any combination of these programs. UCX wages are assigned to the state the ex-service member physically is in when filing the "first claim". In the absence of error, the assignment of UCX wages to a state is permanent. UCX wages assigned to one state may be used by another state *only* under the Wage Combining Plan.

### **A. First UCX Application Must Be Intrastate**

The first application made by a claimant *must* always be intrastate (in North Carolina, this is the new initial UCX claim). Thus, if a claimant makes his first application for UCX benefits in this state, all UCX wages must be assigned to North Carolina *provided a benefit year is established*.

## **B. UI and/or UCFE Wages in North Carolina, Plus UCX Entitlement**

If the claimant has wages (UI or UCFE) in North Carolina in addition to his UCX wages, he *must* file an *intrastate* claim against all those wages *and* his UCX wages. No wages assignable to North Carolina may be excluded.

## **C. UI or UCFE Wages in Another State - Application for UCX Wages Not Yet Made**

If the claimant has UI or UCFE wages in another state, and is also entitled to UCX wages *for which application has not been made*, he may file one of the following:

- ⌚ an *interstate* UI, UCFE, or UI-UCFE claim
- ⌚ an *intrastate* UCX claim
- ⌚ a combined wage claim

If the claimant decides to file an interstate UI, UCFE, or UI-UCFE claim, follow the regular interstate claim procedures described in Chapter 9 of this manual. A legible Copy No. 4 of DD Form 214 should be sent to the UCX unit in the Central Office along with information regarding the establishment of the interstate claim.

If the claimant cannot establish an interstate claim benefit year, he can file an intrastate UCX claim or a combined wage claim for the same period covered by the interstate claim. For backdating purposes, enter a notation on the claim record file to show that an interstate claim was filed on (date) against (state) and failed to establish a benefit year.

## **15.6 Entitlement to UCX**

UCX claims are processed and paid under the provisions of the Employment Security Law of North Carolina, the liable state law, or the Interstate Arrangement for Combining Employment and Wages. If the claimant meets the criteria of "Federal Military Service", entitlement to UCX benefits is determined in the same manner and under the same conditions as for a regular UI claim except that (a) no separation issue is raised regardless of the reason the individual left military service (see note below) and (b) base period wages are derived from the Revised Schedule of Remuneration (UCX). The Schedule of Remuneration (UCX) may be accessed on-line in the Miscellaneous System under UCX Table Inquiry. The amount of UCX entitlement is determined by the:

- ⌚ claimant's pay grade at the time of his separation from active duty
- ⌚ total length of claimant's military service in the base period, and
- ⌚ total amount of lost time and/or accrued leave in the base period.

**Note:** A separation under other than honorable conditions prohibits an ex-service member from meeting the Federal Military Service criteria and makes him ineligible



for UCX benefits **unless** an appeal to the appropriate branch of military service results in an amended reason for separation that is under honorable conditions. For qualification purposes the separation reason 'inaptitude' is defined as "being unsuitable for military service for reasons largely related to personal characteristics not reflected by acts of serious misbehavior". There are 20 narrative reasons that fit the definition of 'inaptitude'.

### **15.7 Retirement Pay and Disability Pensions**

If the UCX claimant is receiving a military pension, or retainer pay from Fleet Marine Corps Reserve or Fleet Naval Reserve, and the current benefit year is based wholly or in part on UCX wages, then the pension or retainer pay must be deducted from the claimant's weekly benefit amount in accordance with instructions found in Chapter 5 of this manual. COLA adjustments are made to such pensions effective December 1 each year and deductions from UI benefits must be adjusted accordingly.

**NOTE:** Retirement pay from the Federal Government is deductible on all UCFE and UCX claims or any combination thereof involving wages from the military or federal civilian service. "For the purpose of deducting federal retirement and annuity payments from UCX benefits all federal civilian and military agencies are a single employer – the United States." The concept is that the Federal Government is a single employer; therefore, retirement pay from federal civilian employment is reportable on a UCX claim.

An UCX claimant who is receiving a pension may make application to the Veterans Administration requesting that a portion of the pension be declared and paid as service-connected disability compensation from the Veterans Administration. The VA will review the case and determine whether or not any portion of the pension will be paid as a disability payment. The VA will notify the ex-service member of their determination. If accepted the branch of service will notify the ex-service member of what portion of his pension is being considered a disability payment. The consultant should issue a revised NCUI 563R to reflect the change in the amount that is deductible from his weekly benefit amount. The change is effective upon receipt of the change (change effective date is on the notification received by the claimant) and is not retroactive. The amount received from the VA is not deductible; however, receipt of such payments raises a potential able and available issue which must be thoroughly explored and resolved before any unemployment insurance benefits can be paid.

**Note:** If the narrative reason for separation from the Branch of Service is a disability and the ex-service member will receive or is receiving a disability pension from the Branch of Service, then the pension should be entered just as another pension and it will be deducted from the WBA.

### **15.8 Allowances from the Veterans Administration**

Ex-service members taking vocational rehabilitation training may qualify for subsistence allowances from the Veterans Administration (VA) under the provisions

of Chapter 31 of Title 38, United States Code. Under federal UCX law, a claimant is not eligible for UCX benefits, or for the UCX portion of a joint claim during any week that he receives such allowances from the VA.

#### **A. UCX Claimant Has Applied For or Is Receiving VA Allowances**

When an ex-service member files a new, reopened, or continued UCX claim, he must be questioned regarding his application for or receipt of VA allowances. If he has applied for or is receiving a VA allowance, process his claim as follows:

##### *1. VA Allowances Applied For But Not Yet Received*

Application for VA allowances has no effect on the claimant's eligibility; however, it may raise an issue of availability that must be decided by an Adjudicator. Inform the claimant that:

- ⌚ if the allowance he applied for is approved and if it is covered under Chapter 31, then any UCX benefits he received during the period covered by the allowance must be repaid.
- ⌚ his UCX claim must be referred to an Adjudicator on the issue of availability if the allowance is approved under Chapter 31.

##### *2. Claimant Currently Receiving VA Allowance*

If the claimant is currently receiving a VA allowance, explain that he is not eligible for UCX benefits if the allowance is covered under Chapter 31.

#### **B. UCX Claimant No Longer Receiving VA Allowances**

If the UCX claimant states that he no longer receives VA allowances under Chapter 31, take one of the following actions, as appropriate:

1. 1. If the allowance was discontinued within the past 30 days, advise the claimant that he must obtain and present documentary evidence from the VA or the school where he was enrolled which shows the date the allowance was discontinued. Further advise him that UCX benefits cannot be paid until he presents such evidence. If the documentary evidence presented by the claimant shows that his VA allowances were discontinued prior to the effective date of the claim, enter the date the VA allowances were discontinued on the comments screen by use of Screen Y1. Do *not* raise an issue with respect to the receipt of allowances. Return the documentary evidence to the claimant.
2. 2. If the VA allowances were discontinued on or after the effective date of the claim, explain the issue to the claimant and refer the matter to the office Adjudicator.
3. 3. If the claimant states that the VA allowance was discontinued more than 30 days prior to the effective date of the claim, no further evidence is required; it is assumed that the VA allowance has been discontinued.

#### **15.9 Benefit Rights Interview**

Each separated UCX claimant must (1) be given a benefit rights interview, (2) be registered for work, (3) complete Screen A.ER, and (4) be screened in accordance with regular UI procedures described in Chapters 2 and 4 of this manual.

### 15.10 New Intrastate UCX Claim

A request for and determination of UCX entitlement is accomplished by entering required data on Screens B1 and B6. To take a new UCX claim, follow the instructions below.

1. Enter the initial claim data on Screen B1 to generate Form NCUI 500 on-line. Take special care to use the UCX or UCX combination program code when entering the B1 information. Failure to do so may cause the claim to establish improperly. Review Form NCUI 500 for accuracy and completeness. Both the claimant and the interviewer must sign the certification section of the form if the claim is filed in person. File Form NCUI 500 in the claim record file.

Entries are not made on Screen B2 unless the claimant has had employment since separating from the military. Form NCUI 500AB, *Notice of Claim and Request for Separation Information*, is not mailed if the military is the last employer.

2. Enter the appropriate data from Copy No. 4 of DD Form 214 on Screen B6 to generate two copies of Form ES-970, *Request for Determination of Federal Military Service and Wages-UCX*. The completed forms must be reviewed, signed and dated by both the claimant and the consultant if taken in person. Return the original DD Form 214/215 and a copy of Form ES-970 to the claimant. Retain a copy of DD Form 214/215 and ES-970 in the claim record file.

- ⌚ If the claimant contends he never received DD Form 214/215, or that he has lost it, complete Screen B6 (Form ES 970) with information furnished by the claimant. The system will not add wages when "0" or "1" is entered in the DD214 COPY NUMBER data field of Screen B6. The initial claim will be built, but wages will not be added. The claim record will show that the claimant is monetarily ineligible until a legible copy of DD Form 214 is received from the Federal Claims Control Center or from the claimant. UCX staff in the Central Office will make any required changes to the claim record when the copy of DD Form 214 is received.
- ⌚ If an ex-service member has had additional military service since the original assignment of UCX wages and he does not have an UCX benefit year in progress, take a new UCX claim by completing Screens B1 and B6. Use data from the claimant's most recent period of military service to complete these screens.
- ⌚ If an ex-service member does not have any base period UCX wages but his last employer was military, question the claimant closely to determine if he has filed a 'first claim' in another state since separation from the military service.

If he has not filed in another state then proceed to complete the entries on screen B1 indicating an UCX program code and show '1' in field No. 41 (No. of UCX employers) so that screen B6 can be accessed to cause UCX wage assignment to North Carolina.

If claimant has filed a 'first claim' in another state, question the claimant carefully about any documentation he may have received concerning an unemployment claim and access the B.88 screen to determine if a valid benefit year has been established in the other state.

**Note:** Do **not** use screen B6 if the claim is being filed by an individual who was employed by the National Oceanic and Atmospheric Administration (NOAA). Instead, send a copy of NOAA Form 56-16 (Report of Transfer or Discharge) and a manually prepared copy of Form ES-970 to the UCX Unit in the central office for further processing.

3. If needed, the data entered on Screen B6 can be used to generate three copies of Form MA 843, *Request for Military Document/Information for Unemployment Compensation Purposes - UCX*, with all items completed. Use this form to request information omitted on DD Form 214 or to verify DD Form 214 information contested by the ex-service member. The agency can use this form to contest only those items on the DD Form 214 that are used for unemployment insurance purposes. Other items must be contested by the claimant himself to the Branch of Service. The ex-service member must review and sign all three copies. If the claim is filed in a remote fashion (i.e. telephone or internet) all three copies must be sent to the claimant for signature with instructions to return all three copies to agency. Upon receipt of the signed forms a designated staff member must forward two copies of the signed form to the Branch of Service. Retain the third copy in the claim record file.

Do **not** use Form MA 8-43 to request a copy of DD Form 214 from the Federal Claims Control Center. The Benefit Payment System automatically requests a copy of DD Form 214 from the Center whenever "0" or "1" is entered in the DD Form 214 COPY NUMBER data field of Screens B6 or D3. Consequently, "Y" is not an acceptable entry in the MA 8-43 data field of Screens B6 or D3 if "0" is entered in the DD214 COPY NUMBER data field of these two screens. Since Copy No. 1 of DD Form 214 does not contain complete information, a "Y" may still be entered in the MA 8-43 data field if "1" is entered in the DD 214 COPY NUMBER data field. However, Form MA 8-43 is to be used to question only information on DD Form 214 with which the ex-service member disagrees.

4. Present and explain the monetary determination to the claimant. Base period UCX wages shown on the monetary determination are taken from the Schedule of Remuneration (UCX) according to the claimant's pay grade at the time of separation from active duty. Any UI or UCFE wages the claimant has during the base period are added to the UCX wages to determine his total wages. If information returned from the branch of service requires a change in the claimant's pay grade, Central Office staff will enter the data and a revised monetary determination will be sent to the claimant. Adjustment payments or overpayments will be issued or established if appropriate.

Screen D3--UCX Wage Calculations is a stand-alone version of Screen B6. It is used in the same manner as Screen B6 to enter information from DD Form 214/215 at least one day **after** a new claim has been entered into the Benefit Payment System.

#### BPS Inquiry Screen References

BPS Data Entry Screen References

B1 - Initial Claim Information B6 - UCX Wage Calculations

**15.11 Form NCUCX-3, Determination of Federal Military Service**

If the claimant does not meet the federal military service qualifications of Chapter 85, Title 5 of the

U.S. Code, Form NCUCX-3, *Determination of Federal Military Service*, will be generated and mailed from the central office on the next work day after the claim is filed. Form NCUCX-3 explains the specific reason(s) why the claimant does not meet the definition of federal military service.

The claimant can appeal this determination. Agency assistance in this review process is restricted to providing the claimant with the payroll address of the branch of military service to which he must write. The NCUCX-3 should be signed by the claimant and mailed to the UCX Unit in the Central Office. The UCX Unit will send the appeals tribunal address to the claimant for his branch of service. If his appeal is based on what he believes to be an error on DD Form 214, the claimant is responsible for requesting his former branch of military service to review the form.

If the claimant subsequently returns to the local office with a corrected DD Form 214, forward a copy of that document to the UCFE/UCX Unit for processing.

**15.12 New Intrastate UCX Claim – Second Benefit Years**

If a second benefit year is being filed that will use UCX wages already assigned to North Carolina, pull the DD Form 214 from the prior benefit year file.

- On screen B1 use the appropriate UCX program code and number of UCX employers.
- On screen B6 enter in field No. 10 a 'Y', in field No. 11 enter 'the date the prior claim was filed' and in field No. 12 enter 'NC'.

This will build the 17 screen for audit trails, produce a form ES-970 but will not erroneously generate an inquiry to the Federal Claims Control Center.

**15.13 New Interstate UCX Claim**

If UCX wages have previously been assigned to another state, interstate claims may be filed against that state. When required by the liable state, key the data shown on Form IB-1, Initial Interstate Claim, through the ICON system. Check the UCX box to indicate the type of claim being filed. If UCFE wages are also involved, refer to Chapter 14 of this manual. Some states accept claims through Call Centers and in such a case the claimant should be given the telephone number for the liable state. If the state takes claims over the internet, the claimant should be given the URL for the

liable state.

### BPS Internet Subsystem Screen References

80 - Internet System wide Main Menu 83 - Icon IB-13 Main Menu  
81 - Internet IB-1 Main Menu 88 - Interstate Claim and Wage Inquiry

#### **15.14 New UCX Combined Wage Claim**

New UCX Combined Wage Claims are filed in accordance with the procedures contained in Chapter 10 of this manual.

If the UCX wages have already been assigned to another state, the claimant has a prior benefit year there that has expired or exhausted, key IB-4 requesting the lag wages that may be available for transfer. Enter the following statement in the comments section of the IB-4, "Please transfer any and all UCX wages from prior claim filed in your state on (DATE the prior claim was filed)". This is necessary because some states have subsystems or other such places to store UCX lag wages rather than having them available on their primary system. When doing the B1 transaction a combined wage program code that includes UCX must be used. In this situation a B6 should **not** be keyed. A copy of the DD Form 214/215 is not required.

#### **15.15 Reopened Claims (Intrastate and Interstate)**

Process reopened UCX claims (or any combination thereof) in accordance with the instructions used to process straight UI claims. When reopening a UCX claim, if the last employer is one of the branches of the armed forces, enter the appropriate military account number and code 40 (lack of work) for the separation reason. The system will post the employer address for the indicated branch of service account number, but Form NCUI 500AB will not be sent. The branch of service account numbers are as follows.

92-00-801	Army	92-00-803	Air Force	92-00-804	Marine Corps
92-00-802	Navy	92-00-805	Coast Guard	92-00-806	NOAA

**Note:** Do **not** enter data on Screen D3, UCX Wage Calculations. When and if the claimant reports to file a new initial claim and the wages from the last employer are in the base period, then the military wages will be assigned. The Federal Handbook states that the assignment of wages is done when the "first claim" is taken, that establishes a benefit year.

#### **15.16 Intrastate UCX Continued Claims**

An intrastate UCX claimant can file his continued claims by mail, internet or by telephone. The procedures described in Chapter 5 of this manual apply equally to UCX continued claims.

### **15.17 Interstate UCX Continued Claims**

The UCX claimant who establishes a new interstate benefit year will receive filing instructions from the liable state. However, staff should respond appropriately to any request for assistance by an interstate claimant (refer to Chapter 9 of this manual).

### **15.18 Partial and Part-Total Benefits**

The amount of benefits paid to a UCX claimant for a week of less than full-time employment is determined in the same manner and according to the same requirements applicable to a regular unemployment insurance claim.

### **15.19 Referral of Questionable Claims**

Regular procedures for recognizing and referring questionable UI claims also apply to UCX claims (or any combination thereof).

***Note:** No issue requiring adjudication by a State Employment Security Agency may be raised with regard to the reason for a UCX claimant's military separation. See Chapter 15.6 of this manual.*

1. **15.20 Processing Non-monetary Determinations**
2. **15.21 Investigations of Possible Fraud**

Non-monetary determinations for UCX claimants are processed in essentially the same manner as for UI claimants.

The fraud provisions in Section 96-18 of the *Employment Security Law* apply equally to UCX claims (or any combination thereof). Local office staff should promptly report any suspected case of fraud to the Benefit Payment Control Unit in the Central Office.

### **15.22 Retention of UCX Records**

All UCX (or any combination thereof) claim record files must be retained for three years after the last action affecting the claim. This includes any appeal or court action relevant to the claim.

## **Chapter 16 Trade Adjustment Assistance/Trade Readjustment Allowances**

### **16.1 Introduction**

The Trade Act of 1974 as amended in 1988 created an adjustment assistance program to help individuals who become unemployed or are underemployed because of increased imports return to suitable employment. The responsibility of determining whether imports are adversely affecting an industry or firm rests with the Office of Trade Adjustment Assistance (OTAA) of the U.S. Department of Labor. When OTAA certifies that an industry or firm has been adversely affected by imports, workers separated from such employment may be entitled to Trade Adjustment Assistance (TAA). TAA includes training and training allowances, job search allowances, Health Coverage Tax Credit (HCTC), Trade Readjustment Allowances (TRA), and any other rights or benefits provided for workers by the Trade Act.

The Trade Reform Act of 2002 (Public Law 107-210) amends and adds provisions to the TAA program, many of which apply to TAA petitions received on or after November 4, 2002.

The Trade Reform Act:

- Repeals NAFTA-TAA, consolidating that program into TAA (Workers certified for NAFTA-TAA under petitions received before November 4, 2002, however, will continue to receive NAFTA-TAA services for as long as their eligibility lasts.)
- Expands eligibility to more worker groups, increases existing benefits available and provides tax credits for health insurance coverage assistance
- Increases timeliness for benefit receipt, training and rapid response assistance
- Legislates specific waiver provisions
- Establishes other TAA programs

Additional information about the TAA/TRA Program can be obtained from Chapter V of the ETA manual and 20 CFR, Part 617.

### **16.2 General Information**

The TAA/TRA Program is primarily localized rather than state-wide. A TAA/TRA Program certification is usually applicable to a single firm, or a part of a single firm. A petition for Trade Adjustment Assistance can be filed by three or more affected workers, by a union representative, or any other authorized representative of the workers, official of the employer, One Stop operator or partners or a state dislocated worker unit.

The Central Office ES-TAA Coordinator will notify the involved office(s) when a petition is filed and will assume responsibility for obtaining the name and address of individuals likely to be covered by the petition. If the petition is certified, the ES-TAA Coordinator will provide office staff with the following information:

- The TA-W petition number



- The name of the firm determined to be adversely affected
- The workers involved (occasionally, only a portion of a firm is certified for TAA/TRA)
- The impact date. This is the date on which total or partial separations began or threatened to begin in a firm or a subdivision of a firm.
- The certification date. This is the date that OTAA issued its determination of eligibility to apply for adjustment assistance.
- The termination date. This is the date, usually two years from the certification date, on

which a petition terminates (date after which no new TAA/TRA applications can be filed). Continued claims may continue to be processed after the termination date.

The ES-TAA Coordinator will ensure that each affected individual is notified by letter of the certification's approval. This letter will also advise the individual of action that must place to file a claim for benefits.

### 16.3 Definitions Pertinent to the TAA/TRA Program

In this chapter the words, 'applicant', 'claimant', 'individual', and 'worker' are synonymous and are sometimes used interchangeably.

**Act** means the Trade Reform Act of 2002, 107 Public Law 210; 116 Stat. 933; 2002.

**Adversely affected employment** means employment in a firm or subdivision of a firm certified under the Act as eligible to apply for Trade Adjustment Assistance.

**Adversely affected worker** means an individual who, because of lack of work in adversely affected employment has (1) been totally or partially separated from such employment, or (2) been totally or partially separated from employment within a subdivision of a firm.

**Agent State** means the state agency acting as agent for the liable state in interstate TAA and TRA matters.

**Bona fide application for training** means an individual's signed and dated application for training (Form NCSES 8-58) filed with an office of the Commission in which that individual's TRA claim is filed. An agency representative must sign and date the form upon receipt. The application for training must be approved by the State TAA Coordinator before it becomes effective.

**Certification** means a certification of eligibility for a group of affected workers to apply for TAA issued by OTAA.

**Commuting area** means the area in which an individual would be expected to travel to and from work on a daily basis as determined by the applicable State Law.

**Date of separation means:**

- With respect to a total separation, the last day worked for an individual in employment status; or the last day an individual would have worked had he not been on authorized leave.
- With respect to a partial separation, the last day of the week in which the partial separation occurred.

**Eligibility period** means, for purposes of paying TRA, the 104 week period beginning with the first Sunday following the individual's separation from adversely affected employment.

**Employer** means any individual, business or organization, including the Federal government, a State government, or a political subdivision performing services within the United States.

**Employment** means any service performed for an employer by an officer of a corporation or an individual for wages.

**Family** means the following members of an individual's household whose principal place of abode is with the individual in a home the individual maintains or would have maintained if not for unemployment:

- A spouse;
- An unmarried child, including a stepchild or foster child, under age 21 (or any age if incapable of self-support because of mental or physical incapacity); or
- Any other person whom the individual would be entitled to claim as a dependent for income tax purposes under the Internal Revenue Code of 1954.

**First separation** means an individual's first total or partial separation from adversely affected employment which most closely follows the impact date of the certification under which the individual is covered, and which occurs before or within the individual's first benefit period. For purposes of TRA entitlement, first qualifying separation means an individual's first total or partial separation from adversely affected employment on the basis of which the individual qualifies for TRA.

**Head of family** means an individual who maintains a home for a family. An individual maintains a home if over half the cost of maintenance is furnished by the individual, or would be furnished if not for unemployment.

**Impact date** means the date in the OTAA certification on which total or partial separations began or threatened to begin in a firm or subdivision of a firm.

**Liable state** means the State against which an interstate claim is filed.

**Partial separation** means that during a week ending on or after the impact date specified in the certification, an individual's work hours are reduced to less than 60 percent of his average weekly hours. Self employment or employment as an independent contractor is not included.

**Suitable employment** means full-time employment in a job at or above the skill level (technical or professional) from which the trade affected individual was separated and which pays at least 80% of the salary paid by the affected employment.

**Total separation** means a layoff or severance of an individual from the payroll of a firm, or a subdivision of a firm, in which adversely affected employment exists.

**Trade Adjustment Assistance (TAA)** means the services and allowances, including TRA, ATAA, HCTC, training and other reemployment services, and job search and relocation allowances that may be provided to workers adversely affected by imports.

**Trade Readjustment Allowance (TRA)** means a weekly allowance payable to an adversely affected worker with respect to the worker's unemployment benefits.

**Week** means any such seven consecutive calendar days as designated by the Employment Security Commission.

**Enrolled in training** means a worker's application for training has been approved by the State Office, and the training institution has furnished written notice that the worker has been accepted in the approved training program which begins within 30 calendar days.

**Completed training** means:

- The worker has completed training or approvable by the TAA Program Standard;
- The training occurred subsequent to the individual's total or partial separation from affected employment; and
- The training provider certified that all the conditions for satisfactory completion of the training were satisfied.

## **16.4 Job Search Program**

While participation in a job search program is recommended, it is not a requirement for receiving Trade Readjustment Allowances (TRA), job search allowances and relocation allowances.

### **A. Job Search Program Defined**

A Job Search Program is a job search workshop or a job finding club as described below.

#### Job Search Workshop

A one or three day seminar designed to provide participants with knowledge and skills to help them find jobs. Subjects include, but are not limited to, labor market information, resume writing, interviewing techniques, and techniques for finding jobs.

#### Job Finding Club

A Job Finding Club is a job search workshop which includes a period of one to two weeks of structured, supervised activity in which participants attempt to obtain jobs.

## **B. Approved Job Search Programs**

Existing job search programs operated through the WIA, the Employment Security Commission, or any other federally or State funded program which meets the definitions above may be approved. Company sponsored Job Search Programs which meet the statutory definitions may also be approved.

## **C. Referral of Workers**

The office may refer workers to available, approved Job Search Programs unless the workers are already enrolled in approved training classes. Approval procedures similar to those required for the approval of training, job search allowances and relocation allowances are also required for job search programs. Some workers may attend and complete Job Search Programs established as a result of, or associated with, plant closings or layoffs, before they file for TAA/TRA. Try to determine whether such a Job Search Program meets the statutory requirement.

## **16.5 Training as an Entitlement**

The TAA program offers training to those individuals who need training to have the skills necessary to re-enter employment in as short a timeframe as possible. Not all workers may require or be eligible to receive training. In order to approve a training plan, the agency must determine if the following six criteria are applicable and that the training provider is on the list of eligible training providers. A list of approved training providers for each worker's local area may be accessed on North Carolina's State Training Accountability and Reporting System (NC STARS) at [www.ncstars.org](http://www.ncstars.org).

***There is no suitable employment, which may include technical or professional employment available for the worker.*** Suitable employment means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment and wages for such work at not less than 80 percent of the worker's average weekly wage.

***The worker would benefit from appropriate training.*** The worker must have a need for skills training or remedial education and have the mental and physical capabilities to undertake, make satisfactory progress in and complete the training. In addition, the

worker  
must be job ready on completion of the training program.

***There is a reasonable expectation of employment following completion of training.*** Based on the labor market conditions expected to exist at the time of completion of training, there is a reasonable expectation that the worker will find a job using the skills and education acquired while in training, after completion of the training.

***Training is reasonably available to the worker.*** Training must be within the worker's commuting area at a training provider. If training is not accessible to the worker within commuting distance, the cost of transportation must be considered in determining whether the training program is at a reasonable cost.

***The worker is qualified to undertake and complete training.*** This emphasizes the worker's personal qualifications, both mental and physical, educational background, work experience and financial resources as adequate to undertake and complete training.

***Training is suitable for the worker and available at a reasonable cost.*** Training must be suitable for the worker based on the worker's capabilities, background and experience. In addition, training may not be approved at one provider when training substantially similar in quality, content and results can be obtained from another provider at a lower total cost within a similar time frame.

**NOTE:** To qualify for Basic TRA Allowances, Federal TRA Regulations require that the worker be enrolled in an approved training program no later than the last day of the 8<sup>th</sup> week after the date the petition under which the worker is covered was certified or the 16<sup>th</sup> week after the most recent separation, whichever is later, provided the claimant was issued a waiver or enrolled in Commission Approved Training by the Basic Expiration date.

To qualify for Additional TRA allowances, an application for training must be made within 210 days of the date the petition under which the worker is covered was certified or the date of separation, whichever is later.

#### **A. Determining Reasonable Cost of Training**

In determining whether the cost of a training program is reasonable for the purpose of approving or disapproving training for a worker, consider the following factors.

- The cost of training includes tuition and related expenses (books, tools, necessary supplies, and fees), travel and/or transportation expenses.
- First consideration must be given to the lowest cost training available, with the commuting area.
- Training outside the worker's normal commuting area should be approved only in situations where appropriate training is not otherwise available.

For additional information and explanation of these items, refer to the CFR 617.22.

## **B. Types of Approvable Training**

The types of training programs approved for funding under the TAA program, includes Remedial, Occupational, Classroom, OJT and Customized.

- **Remedial Training**

There are various types of remedial training which may be required or taken in conjunction with some type of occupational training. Types of remedial training may include:

GED

Adult High School

Developmental Math, Reading and English

English as a Second Language

The TAA program allows a worker up to 130 weeks to complete training when remedial training is required prior to completing the desired occupational goal.

- **Classroom/Occupational Training**

Occupational training is a type of TAA approved training, conducted in a classroom setting, that is tailored to meet the workers specific needs and for jobs for which there is a labor market demand. There are conditions when distance learning is approved as part of a curriculum, which include: (a) leads to the completion of the training program (b) requires students to interact with the instructors (c) requires students to take periodic tests and (d) requires students to come onto the training facility for tests and meetings with instructors.

The types of training approved could range from upgrading a worker's current skill to providing the worker with a new skill resulting in a certificate, diploma or degree. Short term training is recommended in order that the worker can return to the workforce as quickly as possible. The local TAA representative can advise workers of the occupations in demand and assist workers in deciding what type of work is best suited to their aptitudes, skills and interests. **Individuals enrolled in TAA approved training are required to attend training full time. The definition of full time training is established based on hours and days of training available of the training provider.**

**The maximum duration allowed to complete an approved training program**

is 104

**weeks, unless the worker requires remedial training, in which case this time can be extended up to 130 weeks.**

Training costs include tuition, books, school fees, required tools and uniforms and transportation, when required. If the worker is eligible for any type of federal, state or non-governmental educational grants or scholarships, TAA regulations require those funds be used to pay training costs. However, if training costs exceed the amount of the grant or scholarship, TAA funds will be used to pay the remaining training costs.

If training is not available within 60 miles one-way from the worker's home, he or she may apply to receive assistance with transportation costs.

Transportation allowances are paid at the federal mileage per diem and in accordance with applicable rules and criteria. In addition, transportation allowances are considered in determining the total cost of the training program and whether the cost is reasonable in accordance with TAA regulations.

#### • OJT

OJT is a type of training, in the public or private sector, which provides training by the employer while the individual is working on the job. The training will provide knowledge or skills essential to adequately perform a specific job. OJT may be offered in occupations that provide opportunities not otherwise available, leading to economic self-sufficiency and providing upward mobility. The TAA program provides reimbursement of no more than 50 percent of the wage rate of the worker's wages, for the cost of the training and additional supervision during the training period which cannot exceed six months. Workers interested in utilizing this method of training with a specific employer should discuss OJT with their local TAA representative prior to accepting the employment.

#### • Customized Training

Customized Training is a type of training that is designed to meet the special requirements or occupational need of an employer or group of employers. This type of training would benefit expanding industry or recruitment of new industry within the local labor market. The training is provided by a private or public training vendor designed specifically to meet the needs of the employer. The training is conducted with a commitment by the employer to employ an individual upon successful completion of the training. The employer pays for no more than 50 percent of the cost of the training.

### **C. Funding Training**

If the worker is eligible for state or private scholarships, federal grants (Pell) or

scholarships or Veteran's Educational Assistance, those funds must be used prior to TAA funds.

Whenever available, the worker should be referred for services under WIA. WIA funds may be used in lieu of TAA funds for training costs.

The law prohibits payment of training cost under any other Federal law if they are paid from TAA funds, and prohibits the use of TAA funds to pay any training costs that have already been paid under any other Federal law. In short, these prohibitions preclude all duplication which may in any way involve the use of TAA funds.

## **16.6 Enrolling a Worker in Approved Training**

Before a worker can be enrolled in approved training, certain actions must be completed.

### **A. Detailed Training Plan**

A local ESC training representative must help the individual develop a complete and detailed training plan. The plan must include the worker's goal and the various steps required to achieve that goal.

### **B. Requirements for Approvable Training**

To protect the worker's eligibility for weekly TRA benefits, the requirements for approvable training must be taken into account at every stage of the planning process.

### **C. Effective Vocational Planning**

Effective vocational planning requires a thorough knowledge of area labor market trends, as well as up to date literature from the area technical and community colleges and public and private training facilities.

## **16.7 Follow Up While Worker is in Training**

Follow up procedures designed to monitor a worker's progress after enrollment in training must be implemented. These procedures include:

### **A. Effective Relationship with a Training Facility Official**

The local training representative must develop an effective relationship with an official of the training facility. Each instructor should be the person responsible for certifying that the individual is fulfilling the satisfactory participation requirements necessary



to remain  
eligible for TRA weekly allowances.

### **B. Form NCUI 8-58A, Weekly Request for Allowance by Worker in Training**

This form when completed by the instructor(s) provides monitoring of the worker's progress and class attendance.

The claimant is responsible for completing the Form NCUI 8-58A bi-weekly, including obtaining the necessary instructor(s) signatures. The claimant is responsible for providing the completed forms to the Agency at scheduled intervals. This allows the Agency to ensure that the attendance requirement has been met for the continued payment of TRA benefits. If it is determined that the claimant is no longer in training the TAA Coordinator must be notified.

### **C. Bills for TAA Funded Training**

Forward bills for TAA funded training to the State Office TAA Coordinator.

## **16.8 Training Required as an Eligibility Condition for Receiving Basic TRA**

The Omnibus Trade and Competitiveness Act (OTCA) of 1988 requires that before receiving basic TAA benefits, an individual must (1) be enrolled in approved training, (2) have completed approved training, or (3) have received a written waiver stating that approved training is either not feasible or is inappropriate for the individual.

For the purposes of this amendment, the following definitions apply:

Enrolled in Training – A worker shall be considered to be enrolled in training when the worker's application for training is approved by the State Office and the training institution has furnished written notice that the worker has been accepted in the approved training program beginning within 30 calendar days.

Completed Training – A worker shall be considered to have completed approved training if the training was approved or approvable by the TAA Program Standards, if the training occurred subsequent to the individual's total or partial separation from affected employment, and if the training provider certified that all the conditions for satisfactory completion of the training were met.

### **A. Certification Waiving a Worker's Participation in Training**

After assessing the worker's skill levels, the consultant may determine that it may not be feasible or appropriate for the worker to enroll in training because of one or more of the reasons listed below. If an individual is issued a waiver from the training requirements, they may be entitled to receive Trade Readjustment Allowances (TRA) after they exhaust regular Unemployment Insurance (UI) benefits while they continue to look for work. The UI and TRA benefits payable will not exceed 52 weeks. An individual is also eligible for the HCTC during the period the worker is on a waiver and receiving weekly benefits.

**Recall** -The worker has been notified that they will be recalled by the trade-affected employer from which the separation occurred. The notice of recall must be in writing and give the specific date of the recall.

**Marketable Skills** -The worker may possess marketable skills for suitable employment and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

**Retirement** -The worker is within two years of meeting the requirements for either Social Security benefits or a pension sponsored by either the employer or labor organization.

**Health** -The worker is unable to participate in training due to the health of the worker. However, issuance of a waiver for this reason would not exempt the worker from being able, available and actively seeking full-time employment.

**Enrollment Unavailable** -The first available enrollment date for approved training for the worker is within 60 days after the date that the determination was made that they were in TAA approved training.

**Training Not Available** -Training is not reasonably available to the worker from either governmental or private sources, no training that is suitable for the worker is available at a reasonable cost, or no training funds are currently available.

## **B. Periodic Review of Waivers**

Waivers are periodically reviewed to determine if the reason for issuance is still applicable. If the consultant determines that the basis for the waiver is no longer applicable to the worker, the waiver may be revoked.

Training waivers are issued to avoid penalizing workers who are certified eligible under a TRA petition, and who through no fault of their own, cannot comply with the OTCA training requirement. Since waivers are, for the most part, based on temporary conditions, periodic reviews of waivers must be performed to determine if those conditions have changed. Consequently, the validity period of a waiver is 30 days.

When a waiver is issued, schedule a review of that waiver no later than 30 days from the date of issue. Weekly TRA benefits will be paid only to those individuals for whom the Special Programs Unit has received either a notice of enrollment in approved training or a valid waiver of the training requirement.

Form NCUI 8-56W, Waiver of Training Requirement, is used to inform a worker (and the State Office) that a waiver of the training requirement has been issued. This form includes space to indicate the reason for the waiver.

## **C. Revocation of a Worker's Right to TRA**

No TRA benefits may be paid to a worker who, without justifiable cause, fails to begin participation in an approved training program, or leaves such a training program before completing it, or whose training requirement waiver is revoked. Suspension of benefits begins with the week in which such failure, leaving or

revocation occurred, and continues until the worker begins or resumes participation in an approved training program.

Use the following definitions when making determinations to discontinue TRA benefits for the reasons described above:

#### Failed to Begin Participation

A worker shall be determined to have failed to begin participation in an approved training program when the worker fails, without justifiable cause, to attend all scheduled training and other training activities in the first week of the training program.

#### Ceased Participation

A worker shall be determined to have ceased participation in a training program when the worker fails, without justifiable cause, to attend all scheduled training classes and other training activities scheduled by the training institution in any week of the training program.

#### Justifiable Cause

Justifiable cause means such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including, but not limited to reasons beyond the individual's control, and reasons related to the individual's capability to participate in or complete an approved training program.

### **D. Appeal Rights**

An individual who is denied TRA benefits for any reason has a right to appeal that decision. The appeal must be filed with the Commission within fifteen days of the date the denial of benefits was issued. The appeal must be written and must state the worker's reason(s) for disagreeing with the denial of benefits. Staff should provide assistance to those workers who request help in filing an appeal.

## **16.9 Payment of TRA During Breaks in Training**

The Trade Act of 2002 authorized the payment of TRA benefits during breaks in training provided three conditions are met. The following paragraphs explain those conditions and provide other pertinent information about breaks in training.

### **A. Conditions for Receiving TRA Payments During Breaks in Training**

A trainee may receive basic and additional TRA during scheduled breaks in training (up to the maximum) of 26 payments for the additional TRA provided:

- The break in training does not exceed thirty days;
- The worker was participating in training before the beginning of the break; and
- The break is provided for in the published schedule of the training program.

A worker participating in training shall not be paid TRA for any week that begins and ends

during a scheduled break in training that is thirty-one days or more in duration.

#### **B. Beginning/Ending Dates of Training and Scheduled Breaks in Training**

The local training specialist must obtain information about the beginning and ending dates of approved training, as well as the beginning and ending dates of any scheduled breaks in the training from an official of the training institution.

#### **C. Determining the Number of Days in a Break in Training**

To determine the number of days within a break in a training program, count all calendar days beginning with the first day of the break and ending with the last day of the break as described in the published schedule. Do not count Saturdays or Sundays occurring during the break unless training is normally scheduled on those days.

### **16.10 Reemployment Services – TAA Approved Training**

The TAA program offers special reemployment services to workers. These services include job search allowance and relocation allowances.

#### **A. Job Search Allowance**

TAA provides assistance for workers who are not able to find suitable employment in the area in which they reside. Job search allowances are available for trade affected workers who are seeking employment outside their normal commuting distance. A worker must apply for TAA and obtain prior approval from a TAA representative before traveling to any pre-arranged job interview. Workers may receive 90 percent reimbursement of necessary transportation and subsistence for job search that exceeds 60 miles from their home. Only travel that occurs in the United States can be authorized. A maximum of \$1,250 per petition is allowed for each worker. Applications must be filed within one year from the date of certification or date of separation, whichever is later; or within six months after completion of a training course approved under TAA.

#### **B. Relocation Allowance**

An eligible TAA worker who finds suitable permanent employment and has a reasonable expectation that the duration of the employment will be long term can receive relocation allowances. The relocation must occur in the United States and exceed 60 miles from their home. Before relocation occurs, a worker must apply for TAA and obtain prior approval from a TAA representative. Relocation allowances are approved after verification of employment with the new employer. Workers may receive 90 percent of the reasonable and necessary expenses of moving household goods to the new location, provided the new employer does not pay for these costs. In addition, each worker may receive a lump sum equivalent to three times the worker's weekly salary to a maximum of \$1,250. Applications for relocation must be filed within fourteen months from the date of certification or date of separation, whichever is later; or within six months after completion of a training

course approved under TAA.

## 16.11 Other TAA Entitlements

The Trade Act of 2002 created a Health Coverage Tax Credit and Alternative Trade Adjustment Assistance.

### A. Health Coverage Tax Credit

The Trade Act of 2002 created a Health Coverage Tax Credit (HCTC) to provide a federal tax credit that covers 65% of the premium amount that eligible individuals pay for qualified health insurance coverage. HCTC is not a government insurance program. Private insurers selected by employers through COBRA or private insurers selected by states provide the insurance.

To be eligible for HCTC, an individual must meet one of the following qualifying requirements and have qualified health coverage plans

1. 1. Individuals must be receiving a Trade Readjustment Allowance (TRA)  
Or

2. 2. Would be eligible to receive TRA except they have not exhausted unemployment insurance (UI) benefits

3. 3. Individuals eligible for and receiving Alternative Trade Adjustment Assistance (ATAA)

4. 4. Individuals receiving benefits from the Pension Benefit Guarantee Corporation (PBGC)

#### **Automatic Qualified Health Plans**

- ☐ (a) COBRA -as long as the employer or former employer contributes less than 50 percent of the total cost of the coverage
- ☐ (b) SPOUSAL COVERAGE -Coverage under a group health plan that is available through the employment of the eligible individual's spouse wherein the employer contributes less than 50% ***[this option is only available as an end-of-the year tax credit and not for advanced credit]***
- ☐ (c) INDIVIDUAL COVERAGE -Coverage that was in effect during the entire 30 day period prior to the date the eligible individual separated from the trade affected employer.

### B. Alternative Trade Adjustment Assistance

After the U.S. Department of Labor issues a *Certification Regarding ATAA Worker Eligibility*, each worker who may be interested in services and benefits under the ATAA program must individually apply to determine their eligibility for ATAA benefits. The

following criteria must be met by individual older workers determined to apply for ATAA benefits:

- Worker must be covered by an ATAA certified petition
- Worker must be at least age 50 at the time of reemployment
- Obtain reemployment by the last day of the 26th week from the worker's separation from adversely affected employment
- New job may not pay more than \$50,000 annually in gross wages (excluding overtime pay)
- Employment must be full time
- Worker cannot return to employment from which the worker was separated **nor** can the worker do the same or similar work for the employer that he was separated from in another division/facility
- A worker's application for ATAA must be submitted within two years of the first day of the qualifying reemployment

Once approved for the ATAA program, eligible individuals may receive up to half of the difference between the worker's old (higher) wage and the new (lower) wage. The wages at the time of separation (excluding overtime) and wages at reemployment will be calculated as annualized hourly rates. The worker's wage supplement will be paid every four weeks for a period of two years or until a total of \$10,000 has been paid, whichever occurs first. Payments to eligible workers will be issued following verification by the Commission of the wages earned by the individual for the previous month. ATAA payments are subject to federal, state tax withholding as well as child support. At any time in which the worker's hourly wage increases which results in the annual income exceeding \$50,000, the worker will not be eligible for future ATAA wage supplements based on such employment.

ATAA eligible workers are also eligible to apply for a Relocation Allowance and Health Coverage Tax Credit (HCTC) but **are not** eligible for other TAA benefits, which include Job Search Allowance, Training or Trade Readjustment Allowances.

#### **16.12 Prior Arrangements Necessary Before Taking TAA/TRA Claims**

After a TAA/TRA petition is approved, the following actions must be taken before any TAA/TRA applications are accepted.

##### **A. Notification of Workers**

Notify workers separated from the adversely affected firm on or after the impact date of their potential entitlement to TAA/TRA. The notification can be in the form of news releases to newspapers, radio and television, or any other method deemed appropriate.

##### **B. Time and Place for Filing for TAA/TRA**

Specify in the notice a time and place to file initial applications for TAA/TRA.

Remember that additional time may be required to properly serve an adversely affected worker.

### **C. Arrangements for Obtaining Separation Information**

The consultant should generate a form NCUI 8-55A to the certified employer.

### **D. TRA forms**

All TAA/TRA forms are available on the agency intranet site.

## **16.13 Taking New TAA/TRA Applications – Basic Forms Involved**

Basic forms used to take a new TAA/TRA application include:

- Form NCUI 8-55, Request for Entitlement to TAA/TRA
- Form NCUI 8-55A, Request for Separation and Wage Information

**NOTE:** If the claimant has been paid Railroad Unemployment Insurance (RRUI), complete Form MA 8-62, Request for Railroad Unemployment Insurance Claim Information.

## **16.14 Processing Continued TAA/TRA Claims**

Once the individual is certified for TAA/TRA, determine their current claim status. If the claimant is in UI status, process continued claims in the usual manner unless the claimant is in approved training.

TRA continued claims are filed by the claimant on the VRU assigned to the Special Payment System.

Beginning with the first week of TRA eligibility, TRA claimant must meet the EB work test criteria.

The amount of TRA payable for a week of total unemployment (including a week of training) shall be an amount equal to the weekly benefit amount of the unemployment insurance payable to the claimant for a week of total unemployment in the benefit year which was established as a result of the first separation from adversely affected employment, or the benefit year which existed at the time the first separation from adversely affected employment occurred. TRA payments are reduced by the same deductibles applicable to regular unemployment insurance benefits.

**NOTE:** TRA payments are limited to weeks of unemployment which begin more than 60 days after the petition for the certification was filed. This filing date is used in establishing the first week of TRA eligibility for which qualified worker may be paid TRA benefits. If a worker is individually qualified under a petition, TRA benefit payments shall be paid for whichever is later:

- The first week of unemployment beginning more than 60 days after the date of the filing of the petition which resulted in the certification under which the individual is covered; or,

- The first week of unemployment beginning after the individual's first exhaustion of UI benefits following the individual's first qualifying separation.

#### **16.15 Referral of Questionable Claims**

When a question of eligibility is raised on either an initial claim or a weekly certification for TRA a fact finding report must be prepared as with any regular claim. The same fact finding forms are used. The completed fact finding form should be clearly marked at the top "TRA". All TRA issues are referred to the Central Office Adjudication unit for a determination.

#### **16.16 Investigation of Possible Fraud**

When there is a question of fraudulent filing of a TRA claim it is referred to the Benefit Payment Control Unit on a form UIC 78 just as any other questionable claim. If the questionable payment was made on the Special Payment System note in red at the top of the UIC 78 "Payment made on SPU".

#### **16.17 Document Retention**

All TAA/TRA records are to be retained for three (3) years from the certification expiration date or date of last payment activity whether it is TRA or a check to a training vendor.



## **Chapter 17 Extended Benefits**

### **17.1 Introduction**

During defined periods of high unemployment, the Extended Benefits (EB) program authorizes up to thirteen additional weeks of benefits for individuals who (1) have exhausted their regular program benefits, or (2) whose benefit year has expired and who cannot establish a benefit year under any State or Federal Law.

### **17.2 General Information**

The following paragraphs contain general information applicable to the Extended Benefits Program.

#### **A. Trigger Dates**

Extended benefits become payable when the state insured unemployment rate (IUR) averages at least 5 percent for the most recent thirteen week period *and* this rate is at least 120 percent of the comparable averages during the same time period in each of the two preceding calendar years. If the 120 percent requirement is not met, the North Carolina insured unemployment rate (IUR) must reach an average of 6 percent for the most recent thirteen week period in order to trigger 'on' extended benefits.

An alternate trigger 'on' is caused when the state average total unemployment rate (TUR) reaches 6.5% for a consecutive three month period.

The extended benefit period begins with the third week after the 'trigger on' week. Either method of causing a trigger 'on' will begin the program, that is, both conditions do not need to be present.

The extended benefit program will trigger 'off' when a consecutive three month average causes the TUR or IUR (which ever caused the trigger 'on') to drop below the required percentage. Payment will end with the latest of the third week after the first week for which there is an 'off' trigger or the 13<sup>th</sup> consecutive week of the extended period.

The minimum length of an EB period is thirteen weeks; the maximum length is dependent upon the above criteria not being met and causing the state to trigger 'off'.

#### **B. Entitlement to Extended Benefits**

An individual is entitled to extended benefits when:

⌚ an EB period is in effect; and ⌚ a qualifying regular benefit year ended during the EB period and there is no entitlement under any other state or Federal law; or ⌚ all entitlement has been exhausted to all regular benefits on a qualifying benefit year

that has not ended and there is no right to regular unemployment benefits under any other State or Federal law.

### **C. Benefit Amount and Duration**

An eligible EB claimant is entitled to the same weekly benefit amount he received on his last regular claim (provided it qualifies); however, the maximum benefit amount of EB benefits is 50 percent of the maximum benefit amount of the claim being extended. An extended benefits monetary determination is issued to each claimant.

## **17.3 Publicity**

When an EB period begins, the Central Office will publicize the program in the various news media. In addition, information about the EB program will be disseminated through:

### **A. Pre-Exhaustion Notice**

During EB periods, the pre-exhaustion notice is modified to inform claimants with two weeks or less of regular benefits remaining about the EB program.

### **B. Notice of Extended Benefits**

The Benefit Payment System will automatically generate and mail a notice about "extended" benefits to any potentially eligible claimant.

## **17.4 Identifying Potential EB Claimants**

Claimants who exhaust regular benefits during an EB period receive a system-generated message which advises them to contact the agency to see if they are eligible for additional benefits under the EB program.

The claimant should be questioned closely to determine if potential benefits are available through any other state or federal unemployment insurance program (UI, UCFE, UCX, Interstate, etc.) before filing an EB claim. If regular benefits will become available at a future date, enter an Y1 comment so that appropriate action can be taken when those benefits are available. For NC claims when the benefit year ends or the quarter changes on monetarily ineligible claims a new regular claim must be attempted and if found eligible the claimant would receive regular state benefits.

**Note:** A claimant cannot choose to file for EB if benefits are available under any other regular unemployment insurance program.

#### **BPS Inquiry Screen References**

01 - Claimant Profile Data    06 - Monetary Determination  
02R - Non-monetary Determinations    07 - Benefit Payment  
History  
02R1 - Non-monetary Determinations    W6 - Wage History    File

### **17.5 Special Provisions**

The following paragraphs describe special forms and requirements applicable to the Extended Benefits program.

#### **A. Forms**

##### **1. Form NCEB 1**

Each EB claimant must complete Form NCEB 1, *Benefits Extension Initial Claim*. This form can be filed on paper at a local ESC office or by phone or on line at the agency web site.

##### **2. Form NCEB 504E**

Form NCEB 506E, *Work Search Record*, must be prepared for every EB weekly certification. This form must be reviewed for adequacy of work search for each week claimed. After being presented to the agency this form must be stored with the claim record file and kept according to the current retention schedule.

#### **B. Search for Work**

Each EB claimant must make a "systematic and sustained effort" to find work each week and to provide "tangible evidence" to the agency that they have done so. *Systematic* means conducted with thoroughness and according to a plan and method designed to produce results, including broadening the plan when there are few openings in the claimant's primary occupation. *Sustained* means continued effort throughout the week.

It is intended by this requirement that the individual claiming extended benefits be required to make a more diligent effort to seek work than would normally be required of an individual receiving regular benefit. When reviewing such efforts the consultant should appraise the reasonableness of the claimant's effort to assure that such efforts are systematic and sustained and that tangible evidence is supplied.

"Tangible evidence" should be a written record of the work seeking activities for each week which contains as a minimum: employer name and address, person contacted, date of contact, type of work applied for, and outcome of the inquiry. There is no requirement that claimant provide any type documentation from the employer.

Develop work search plans with the claimant's assistance; tailor the work plans to suit the unique circumstances of each claimant. In the absence of more specific work search requirements, an EB claimant who has sought work in person on three different days with at least three different employers need not be questioned further with respect to work search. Depending on all pertinent factors (economic activity in the labor market area and the kinds of work available), an EB claimant may be deemed to have actively sought work even though fewer than three in-person job contacts were made and/or these contacts were made on fewer than three days. The adequacy of the claimant's work search must be measured in light of all available information.

Even though claimant may meet the able and available requirement when he served jury duty or for various other reasons not causing claimant to be ineligible for the week, federal requirements require that claimant cannot be excused from meeting the actively seeking work requirement. If claimant cannot meet the seeking work requirement he should be discouraged from filing for the week or else subject himself to disqualification provisions pursuant to section 202(a) (3) of the US Code.

**Note:** Any deviation from the requirement of "three different contacts on three different days" must be documented in writing as a part of the work search plan.

### **C. Job Prospect Assessment**

Determining the claimant's prospect of obtaining work is important for EB claimants. Classifying claimant's job prospects impacts on the unemployment claim to determine suitability of offered employment.

The federal statute requires that an assessment be made of each EB claimant's job prospects and as to whether the prospects of obtaining work in the individual's customary occupation "within a reasonably short period" are 'Good' or 'Not Good'. The determination of whether an individual's prospects are 'Good' or 'Not Good' is made by the consultant. To make the assessment several terms must be defined.

1. 1. 'Reasonably short period' is defined generally to mean a period of four weeks or less, except when the individual has a definite offer of employment with a specific starting date.
2. 2. 'Customary occupation' is defined generally to mean the type of work which claimant has come to depend on to provide his chief means of livelihood. If claimant has not been in the labor market long enough to establish what will be the chief means of livelihood then claimant's occupation during the base period used to establish entitlement to EB benefits should be considered his customary occupation.

### **D. Job Referral**

Suitable work for EB claimants is based on the prospects of obtaining work in their customary occupation with a reasonably short period of time.

If an EB claimant's job prospects are classified as 'Good', the regular state definition of suitable work applies.

Suitable work for EB claimant's whose job prospects are classified as 'Not Good' is any work which is within the claimant's capability. Suitable work for EB claimants whose prospects are 'Not Good' is further defined as any job (1) that is listed with the Employment Service or (2) a job offered by the employer in writing, and (3) the gross pay equals the Federal minimum wage and exceeds the claimant's total weekly benefit amount.

The phrase "any work which is within claimant's capabilities" means that the individual has the physical and mental capacity to do the work and that he has the background which would enable him to perform the job.

Certain conditions must be met when imposing a disqualification for failure to apply for or accept suitable work. The failure to apply provision applies only to referrals by the State agency. Failure to accept applies only when a bona fide offer by an authorized official or intermediary of the employer is made. The following requirements also apply:

1. 1. It must be found that the offered gross remuneration is higher not just equal to the extended weekly benefit amount.
2. 2. The offered remuneration must be the higher of the Federal minimum wage or the applicable State minimum wage.
2. 3. The offer of employment must be in writing and should give the name of the employer, location of the job, the job title, starting date, the hours of work and the pay.
3. 4. The job must be "listed with the State employment service". If an employer notifies the agency that he offered a claimant a job and the claimant refused the job, the claimant cannot be disqualified if that employer had not given the employment service an order for that job prior to the offer and its refusal. This requirement is also applicable to the failure to apply provision.
4. 5. Certain Labor Standards Requirements must also be met. The position must not be

(a) vacant due directly to a strike, lockout or other labor dispute, (b) the wages, hours or other conditions of the work offered must not be substantially less favorable to the claimant than those prevailing for similar work in the locality and (c) there can be no condition of employment that requires the claimant to join a company union or to resign from or refrain from joining any bona fide labor organization.

## **E. Disqualifications**

No disqualification for regular benefits which has been imposed under state law for "voluntarily leaving employment, being discharged for misconduct or substantial fault, or refusing suitable work or refusing referral to suitable work" will be deemed terminated for purposes of determining eligibility for EB *unless* the claimant has had sufficient intervening employment to remove the disqualification (returned to work in some part of five weeks and earned ten times his weekly benefit amount).

Re-imposition of a time certain disqualification as an indefinite disqualification is required on EB claims. If the claimant with such a disqualification insists on filing an EB claim, follow normal procedures in accepting the claim. The benefit system will post the time certain disqualification with an indefinite period to the new EB claim to prevent payment using code E0.

#### **F. Interstate**

An interstate EB claimant can receive full benefits only when both the agent state and the liable state are in an EB period. If the agent state is not in an EB period, but the liable state is, the claimant can receive only two weeks of EB benefits. After the two week period the system will impose an indefinite disqualification using code E6.

### **17.6 New Claims - Intrastate**

While the EB claim is an extension of the base claim, it is identified differently on the claimant's computer record. To take a new EB claim, do the following:

1. 1. Conduct a benefit rights interview.
2. 2. Complete Form NCEB 1; classify the claimant's prospects for obtaining work as 'Good' or 'Not Good'. Prospects are deemed 'Not Good' unless the claimant has evidence of having good prospects of obtaining suitable work within four weeks.
3. 3. Conduct an eligibility review interview; complete or update screen A.ER.
4. 4. Review and update the Client Data screen A.CD.
5. 5. Explain the EB work search requirements. Give the claimant sufficient Forms NCEB506E to last until the claimant's next ERI (If claimant has internet access the form can be printed from the agency web site). All EB claimants must report at least every four weeks.
6. 6. Use Screen B1/B2 to enter the new EB claim into the system. Form NCEB 500, *New Initial Intrastate Claim for Extended Benefits*, may be printed on-line. If Form NCEB 500 is printed in the local office and a "Y" is entered in the INTERVENING EMPLOYMENT data field, the Benefit Payment System will generate and mail Form NCEB 500AB, *Request for Separation Information - Extended Benefits*, to the last employer. In addition, the system will automatically generate and mail Form NCEB 550, *Wage Transcript and Monetary Determination for Extended Benefits*, and Forms NCEB 551 and NCEB 551 UCFE, *Notice of Potential Charges to Your Account for Extended Benefits*, to the appropriate parties.

There is no waiting period for EB. Review and update both the assessment form and Form NCERP 1 every four weeks. A claimant originally classified as having "Good" prospects for obtaining work must be reclassified to 'Not Good' if he is still filing after four weeks. Conversely, a claimant previously classified as having 'Not Good' prospects that presents evidence of now having 'Good' prospects, should be reclassified accordingly. Prepare a new Form NCEB 3 in duplicate whenever the claimant's prospects change. If the change is from 'Good' to 'Not Good', enter a statement as to why the previous prospects failed to materialize. Retain the original of the new form; give or mail the claimant the duplicate copy.

### BPS Inquiry Screen References

01 - Claimant Profile Data  
02R - Nonmonetary Determinations  
02R1 - Nonmonetary Determinations

06 - Monetary  
Determination 07 -  
Benefit Payment  
History W6 - Wage  
History File

### BPS Data Entry Screen References

B1 - Initial Claim Information B2 - Initial Claim Employer Information

## **17.7 Continued Claims - Intrastate**

EB weekly certifications are filed via VRU, internet, in person or in any other manner that the agency may prescribe.

## **17.8 Reopened Claims - Intrastate**

Take reopened EB claims in the same manner as regular claims.

## **17.9 Adjudication - Intrastate**

When an issue is detected, complete the appropriate fact finding report and route it to the Adjudication Unit. Central Office Adjudicators will resolve all issues (including able and available issues) raised by EB claimants. Chapter 6 of this manual contains detailed information and instructions relative to the completion of fact finding reports, adjudication of issues and appeals procedures.

To ensure that Central Office Adjudicators can readily identify EB fact finding reports, follow the special posting instructions described below.

- 🕒 Form NCUI 500B, *Left Work Fact Finding Report*

Post EB in red beside the program type (UI,UCFE) in the upper right corner.

- 🕒 Form NCUI 500C, *Discharge Fact Finding Report*

Post EB in red beside the program type (UI,UCFE) in the upper right corner.

- 🕒 Form NCUI 500D, *Suitable Work Fact Finding Report*

Post EB in red beside the program type (UI, UCFE, UCX) in the upper right

corner. On the reverse side of the form, under Interviewer's Comments, indicate the claimant's job prospects classification ('Good' or 'Not Good').

⌚ Form NCUI 500E, *Able and Available Fact Finding Report*

Post EB in red in the upper right corner. Under Interview's Comments, indicate the claimant's job prospects classification ('Good' or 'Not Good'). If the issue is failure to adequately seek work, attach a copy of Form NCEB-506E to the fact finding report.

⌚ Form NCUI 500F, *Miscellaneous Issues Fact Finding Report*

Post EB in red in the upper right corner. Complete the section(s) of the form which apply to the issue(s) raised (self-employment, sale of ownership share, etc.).

## 17.10 Disqualification

EB claimants may be disqualified on separation issues under the regular provisions of the law.

Federal Statute requires that EB claimants who fail to apply for or to accept suitable work or who fail to actively engage in seeking work is not entitled to benefits for the week in which such failure occurred, and that claimant is further ineligible for EB beginning with the week following the week in which such failure occurred and until the individual has been employed during at least 4 weeks and has earned a total of 4 times the individual's extended weekly benefit amount.

The following special EB issue codes are used in the Benefit Payment System:

E0 – This code is used for a time certain disqualification imposed on the base claim and it prevents payment on the EB claim until the claimant meets the 5 X 10 reemployment requirements. A C2 transaction can be done on the issue using a Status 2/Resolution Code DR to issue a written determination so the claimant will have an appealable determination.

E1 – This code is used for an indefinite disqualification imposed on the base claim and it prevents payment on the claim until the 5 X 10 test is met. A C2 transaction can be done on the issue using a Status 2/Resolution Code DR to issue a written determination so the claimant will have an appealable determination. E2 – This code is used to set an issue if claimant responds "No" to the "able, available, seeking work as directed" question on the weekly certification.

E3 – This code is used for failure to accept referral, failure to apply as directed or refusal of suitable work issues.

E4 – This code should only be used when the claimant prefers to withdraw his claim for a particular week over having the issue of "EB work search" adjudicated. Any time the issue is resolved using this code comments should be made using the Y1



screen.

E5 – This code is valid as a resolution code only for work search and suitable work issues.

E6 – This code is used only for interstate claimants to indicate that their resident state is not in an EB period and they have exceeded the two allowable weeks of payment. This issue is set by the processing of a B1 for an EB interstate claim. The ACTIVE ISSUE DATE is established as the effective date of the EB claim + 14 days. Any weeks filed beyond the 14 days would be held due to the open E6 issue. If it becomes appropriate to resolve the issue use Resolution code E6 and make Y1 comments as to the reason for resolving the issue.

### **17.11 Removal of Disqualification**

If a claimant meets the requirements to have the EB disqualification (either regular or special) removed, complete Form NCUI 564, *Certification to Remove Indefinite Disqualification*. If claimant is re-qualifying due to a separation disqualification on the base claim or the EB claim or a suitable work issue on the base claim the 5 X 10 requirement must be met.

If the claimant must meet the 4 X 4 EB re-qualification requirements due to failure to seek work or suitable work issues on the EB claim, it must be shown that claimant worked in each of at least 4 weeks during each of which they had some earnings and that the total of the earnings equaled or exceeded four times his extended weekly benefit amount. There is no requirement that the weeks are consecutive or that services be in covered employment.

### **17.12 Checking for Regular Benefit Eligibility**

A claimant's eligibility for EB ends whenever any type of regular unemployment insurance benefits become available.

#### **A. Regular UI**

When a new EB claim is filed, the Benefit Payment System checks the wage record file to determine if a new UI benefit year can be established. If an EB claim is established, the system checks for UI eligibility when the EB week being processed is the last week that can be paid in the benefit year, or is beyond the end of the benefit year. The system will generate a listing which describes the outcome of this check as follows:

- "No, insufficient wages for new benefit year as of (date)."

The system builds a new EB claim, or if an EB claim already exists, updates the benefit year beginning date of the base claim to the first day of the next calendar quarter to allow payment on EB until possible additional wages become available.

- "Yes, wages available for new benefit year as of (date). Resubmit weeks

subsequent to new BYB date."

Take a new claim as of the date shown on the printout. Be sure to explore the possibility of additional wages as described in the following paragraph.

## **B. UCFE and UCX**

If the regular claim was UCX or UCFE, one of the following messages will be generated: "Possible UCX wages available from claim effective (date)" or "Possible UCFE available from claim effective (date)". These messages will be generated regardless of whether the claimant can establish a new claim based on UI wages. Printouts indicating the possibility of UCX or UCFE wages will be sent first to the appropriate Central Office unit.

The UCX Unit will forward their printouts to the office with Form NCEB 1 stating whether sufficient UCX lag wages exist to establish a new benefit year. If a new benefit year cannot be established, UCX Unit staff will either build a new EB claim or continue the already established EB claim and pay any eligible weeks.

The UCFE Unit will send a copy of Form UCFE EB 1 to the office with the printouts. Contact the claimant as soon as possible to determine whether UCFE or other wages are available to establish a new benefit year. If a new benefit year is possible, submit the new claim with Form UCFE EB 1 to notify the UCFE unit to establish the new benefit year.

If a new benefit year is not possible, do one of the following:

- Return Form UCFE EB 1 marking the second paragraph to notify the UCFE Unit that an EB claim is not in effect and will need to be established as of (date); or
- Mark through the words "establish an" in the second paragraph of Form UCFE EB 1; insert the word "continue" and return the form to the central office.

A "No, insufficient wages for the new benefit year" message is strictly informational if it is not accompanied by a UCX or UCFE message. All "yes" messages require that a new claim be submitted. Please be aware that when the office receives a message stating that wages are available for a new benefit year, the date shown may not be the earliest date on which a new benefit year can be established. Review all available records to determine the correct effective date. To avoid time lapse problems, submit new claims and all eligible weeks as quickly as possible.

## **17.13 Revised Monetary Determination**

If an EB claimant receives a revised regular UI Wage Transcript and Monetary Determination which restores money to the base claim, any EB weeks already paid will need to be transferred to the base claim. The claimant will continue to file against the base claim until the additional benefits are exhausted. The EB claim effective date will either be deleted or modified to correspond to the revised base claim using an A1 transaction.

#### **17.14 Attached EB Claim**

It is often difficult for staff to determine when an attached claimant becomes eligible for extended benefits. The Benefit Payment System and Central Office staff have primary responsibility for this determination. When an EB claim is established, the attached claimant must be called and interviewed in order to meet the procedural requirements. The attached claimant must comply with all EB requirements.

***Note:** The employer's certification of job attachment is considered an adequate work search and also serves as the work registration. However, after four consecutive weeks of total unemployment, the claimant must be considered totally separated and must meet all eligibility requirements. No exceptions can be allowed. No employer extension of attached claims filing may be granted.*

#### **17.15 Interstate EB Claims**

The liable state is responsible for notifying interstate claimants of the potential availability of EB benefits and for informing claimants of the EB requirements. When requested agent state staff should review the EB eligibility requirements of the liable state and assist with the filing of claims. Liable states will follow regular interstate claim procedures to request eligibility review interviews.

#### **17.16 Seasonal EB Claims**

Seasonal EB claims do not require special handling. If a claimant does not have any nonseasonal benefits left and the week submitted is not in the seasonal period, EB is established. If seasonal benefits become available later, the claimant will be paid under the regular claim until those benefits are exhausted or the seasonal period ends, at which time EB payments will resume automatically.

#### **17.17 Identifying EB Claim Documents**

Note "EB" in red on all Extended Benefit claim documents sent to the Central Office.

#### **17.18 End of EB Period**

An EB period ends whenever the thirteen week insured unemployment rate does not meet the 120 percent test or the IRU falls below 5 percent or the TUR three month average falls below 6.5%. Once started, an EB period is implemented for a minimum of thirteen weeks. The agency will publicize the ending date of an EB period.

#### **17.19 EB Forms Prepared By and Mailed from the Central Office**

##### **A. Notice of Termination of Extended Benefits**

A notice which announces both the end of the EB period and the last week for which benefits can be paid is sent automatically to all active EB claimants whenever an extended benefit period terminates.

#### **17.20 Retention of Records**

Retain EB claim record folders for two years after the effective date of the EB claim.