

UNEMPLOYMENT INSURANCE
DISASTER UNEMPLOYMENT ASSISTANCE HANDBOOK**INITIAL APPLICATIONS****I**NTRODUCTION

1. Initial Applications. The DUA regulations at 20 CFR 625.8, provides that applications will be filed at such time, in such place, and in such a manner as directed by the state agency. In addition, §625.8 provides whenever an individual has good cause for not filing an application in person, the State must have alternative filing procedures to accept the application. Examples of a claimant having good cause are when a state requires filing an application by telephone or internet. In some cases, state staff may be stationed at disaster recovery centers established upon request of the Governor by FEMA where applications may be filed (*See also Chapter I, Section 5.*). Generally, DUA applicants can be better served filing through State agency offices because of readily available information needed for DUA eligibility purposes.

Since there are several reasons that an individual may qualify for DUA and several types of income that are deductible, in addition to those that are deductible from UC, the State must question the individual at the time of the initial application to determine the specific information that is necessary to the specific application. (*See 20 CFR 625.6(f) and 625.13(a).*) The information recorded in the initial claim database or on an initial claim document must contain sufficient disaster identifying information, reasons for unemployment, and wage information to determine eligibility immediately. Utilizing telephone or other remote claimstaking for DUA does not change the requirements of 20 CFR 625.6(e)(1), in that the applicant must submit documentation to substantiate employment or self-employment, or wages earned from or paid for such employment or self-employment or that an individual was to commence employment.

An individual who files an application for DUA must provide a Social Security Number (SSN), as required under 26 U.S.C. 6109(d) for purposes of reporting DUA as taxable income, and other identifying information which satisfies the State agency that the individual filing an application is the applicant named or legal representative. In all cases, the filing of applications for DUA shall be consistent with 20 CFR Part 625 and with the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services," Employment Security Manual, Part V, sections 5000 et seq. (Appendix A of 20 CFR Part 625). As an exception, and as described in greater detail in paragraph d. below, an authorized legal representative, as determined under the laws of the laws of the applicable State, may file a DUA application and take any subsequent action on the application, including an appeal, on behalf of an incapacitated applicant or an applicant's estate.

TYPES OF APPLICANTS

a. Worker Unemployed Due to Disaster. This is an applicant who has become totally, part-totally, or partially unemployed as a direct result of the major disaster and who was employed in, was to commence employment, or who was prevented from reaching the place of employment because he/she had to travel through a major disaster area to employment. Such employment must have been the principal source of income for the individual and the individual's livelihood must have been dependent upon the individual's employment for another individual or business entity for those wages. (*See 20 CFR 625.2(s), (w)(1), and 625.5(a).*)

b. Self-Employed Individual Unemployed Due to Disaster. This is an applicant who has become totally, part-totally, or partially unemployed as a direct result of the major disaster and who was self-employed in, was to commence self-employment, or who was prevented from reaching the place of self-employment because he/she had to travel through a major disaster area to self-employment. Such self-employment must have been the principal source of income for the individual and the individual's livelihood must have been dependent upon the individual's performing services in self-employment for those wages (net income for DUA WBA computation). (*See 20 CFR 625.2(t), (w)(2) and 625.5(b).*)

c. Individual is Head of Household Due to Disaster. When an applicant has become the breadwinner or major support for a household because the head of the household has died as a direct result of the major disaster, the State must obtain sufficient information at the time of the initial application to determine if the deceased head of household was a **wage earning or self-employed member** of the household related by blood, marriage, adoption, or other legal arrangement to the individual who has become the breadwinner or major support for the household, and shared a common residence with the applicant. This information is necessary in order to determine monetary entitlement for such applicant. In addition to obtaining all of the information with respect to the applicant's unemployment circumstances, the same information must be obtained with respect to the deceased head of household because such applicant will be entitled to the greater of his/her own wages or the deceased wages. (*See 20 CFR 625.5(a)(4).*)

d. Incapacitated or Deceased Claimants. The States can take, adjudicate, and make appropriate payments on DUA claims if such claims are filed by an authorized legal representative of an incapacitated or deceased claimant, when such authority to represent the incapacitated or deceased claimant is obtained under the laws of the applicable State. The issue to be addressed is whether to approve such claim. A factor to be considered is whether the claimant met the eligibility requirements during the period of unemployment caused by a major disaster, and before the event leading to the establishment of the authorized legal representative status. The state should request some objective evidence about the claimant's unemployment, ableness for employment, and availability for employment during each week claimed. States are in the best position to determine the objective evidence necessary to adjudicate such claims. Any eligibility established (or not established), as determined for each week, is not altered by the occurrence of subsequent events, such as death or incapacity, which may affect eligibility to future benefits. The authorized legal representative has the right to file DUA appeals on behalf of an individual.

e. UC Exhaustee During Disaster Period. An individual who exhausts UC during the disaster assistance period and is not eligible for any other type of compensation or waiting period credit, may be eligible for DUA. In such cases, the “good cause” unemployment provision for late filing of the DUA initial application is applicable.

2. Potential Eligibility for Unemployment Compensation. It is likely that when a disaster is declared, most workers unemployed as a result of the disaster will be eligible for UC and will be filing initial UC claims. The DUA law (Stafford Act) provides that an individual eligible for UC (including any waiting week) under any State or Federal law, may not be paid DUA for the same week of unemployment. This also means that if an individual exhausts benefit entitlement on a claim or the individual's benefit year ends during the disaster assistance period and a new claim for unemployment compensation is established, no further DUA may be paid. Therefore, it is very important that potential eligibility for UC be explored at the time the initial DUA application is filed.

When an individual is found eligible for UC (including those claims where an individual has disqualifying income), the individual will not meet the basic DUA eligibility requirements unless or until UC entitlement is exhausted. If it is determined an individual is eligible for UC based on inquiry through an automated system or other means, the state agency may not need to immediately take a DUA claim. Equally, if it is obvious that the individual is ineligible for UC, it may not be necessary to take UC application in addition to the DUA application. Also, an individual may have an unsatisfied disqualification on the UC claim but could be eligible for DUA (See Chapter V. 4. d.). Under such circumstances, duplicate claimstaking is unnecessary and would result in an unwarranted expenditure of DUA or UC administrative resources (i.e., initial claimstaking). On the other hand, if state staff are stationed at a disaster recovery center, with no access to wage records or other necessary information, it may be necessary to accept both a UC and DUA application.

PROCESSING

3. Processing Initial Applications.

a. Determining Timeliness of Application. The State must determine if the application was filed within 30 days after the State announcement date of the availability of DUA. If the application was not filed within 30 days, the State must conduct fact-finding to determine if the applicant had good cause for late filing in accordance with 20 CFR 625.8(a). Good cause must be determined on an individual basis. In general, when the state has publicly announced the availability of DUA assistance through appropriate news media as directed under 20 CFR, section 625.17, a reasonable basis on which to justify good cause due to ignorance of the program must be well documented. The state agency will determine each case on its merits (e.g., case where individual is hospitalized as the result of injuries suffered due to the disaster). The good cause reasons for DUA are generally more inclusive than what is considered good cause for state UC claim filing. **State rules or policies related to “good cause” for late filing of state unemployment claims are not applicable to determinations of good cause for late filing of DUA claims.** If good cause for late filing is not found, a determination will be made and a copy, including a notice of appeal or reconsideration rights, given to the applicant. No further processing as outlined in the second step that follows will be necessary.

b. Determining If Unemployment is Due to Disaster. The State must determine whether or not the applicant's unemployment is the direct result of the major disaster. In making this determination, the applicant must meet all of the eligibility requirements for DUA as outlined in 20 CFR Part 625 as explained in Chapter II of this Handbook. If the applicant's unemployment is determined to not be directly due to the major disaster, a written determination to that effect will be issued which includes notice of appeal or reconsideration rights. No further processing of the application will be necessary.

c. Utilizing a DUA Expert System. As part of the DUA initial application process, States may utilize an artificial intelligence or "expert system" approved by the Department (National and/or Regional Office). Expert systems provide for uniformity in DUA decision making between States in accordance with the DUA regulations and for uniformity of decisions for unemployed individuals filing applications within a State as a result of a major disaster. An example of such a system is one developed by the Texas Workforce Commission and further enhanced by a system developed by the Information Technology Support Center (ITSC). Expert systems should have the capability to determine individual eligibility, and, if a claimant is eligible, compute a DUA weekly amount, and print determinations.

d. Verification of Information. The State should develop effective controls and means of verification and identification that will ensure DUA is paid only to those applicants who are unemployed due to a major disaster and meet the other eligibility requirements. An eligible individual must be a citizen or national of the United States or, if an alien, be a "qualified alien," as a condition of eligibility for DUA. In addition, the able and available provisions of State law apply to the DUA Program by virtue of 625.4(g), and an **alien** must be **authorized to work for those weeks for which DUA is claimed** in order to be eligible for DUA. If an alien meets the exception provision of 625.4(g), in that an individual injured as a result of the major disaster is deemed to meet the able and available requirement, such alien must still be in "satisfactory immigration status," because the injury does not convey such status to an alien. Therefore, an "unauthorized alien" is not eligible for DUA. All individuals applying for DUA answering "No" to the question, "Are you a U.S. citizen?" must present documents supporting status as a "qualified alien," and the State agency must verify "qualified alien" status. Means of verification and identification employed by State agencies under regular UC program can be used for DUA (SAVE program), and personnel of the Immigration and Naturalization Service at both the regional and State levels are versed in verification of employment eligibility, if questions should arise. If SAVE is not used, other means of verification must be utilized by the State agency. In addition to the required alien verification discussed above, listed below are several suggested means of verification for other issues, although State agencies are not limited to any of these.

(1) For an unemployed worker, verify the reason for unemployment as given on the initial application, with the last employer; also verify the last day worked and any earnings reported for retroactive weeks claimed. The applicant might also be requested to furnish names and addresses of two persons who can attest to the cause of the applicant's unemployment.

(2) For a self-employed individual, request proof to support such self-employment, such as Federal and State income tax returns, business records, affidavits from individuals having knowledge of the business, such as bankers, or other evidence to verify the individual was self-employed.

(3) If an individual alleges unemployment due to the major disaster because the individual was to begin working for another or in self-employment in the major disaster area when or after such disaster occurred and cannot do so, verify with the employer the date the applicant was to start work and the duration of the job. For self-employment, the individual must present sufficient evidence to indicate the individual's intent to enter self-employment.

(4) In wage-record States, verification of employment information can be made through a check of central office wage records. It is also possible that an individual who claims to have been self-employed will have an employer account number which can be verified with employer account records in the central office.

(5) In contiguous States involving a common major disaster, states should arrange for an exchange of data that will include periodic exchanges of listings of individuals who filed and are eligible for DUA in each State. **NOTE:** In cases where the weekly amount initially established was based only on the claimant's statement of earnings, wage and employment documentation must be submitted within 21 days. (*See 20 CFR 625.6(e)(1)*).

e. Supplementary Eligibility Information. As part of the initial claimstaking process to assist in determining eligibility for self-employed individuals, State agencies should utilize supplemental forms. An example of such forms is set forth in Appendix F. Appendix F-2 is an example of a form to obtain general self-employment information as well as specific information for an individual engaged in farming. States with fishing and timber industries, for example, may have specific forms designed for self-employment or employment in occupations in those industries. Forms should be designed as needed for specific industries or occupations affected by a major disaster in order to better determine an applicant's eligibility for DUA. In addition, Appendices F-3 and F-4 provide examples of forms designed to assess a self-employed individual's plan to return to self-employment or regular employment. Information on such forms in conjunction with the dates provided permits follow-up by the State agency at precise times.

RIGHTS AND RESPONSIBILITIES

4. Providing Assistance Rights Information. An assistance rights interview or an information pamphlet should be provided to all individuals filing for DUA. In general, it should be comparable to the benefit rights interview given to claimants filing for UC. An assistance rights interview will include explanations of the following:

- a. The purpose of this information is to inform the individuals of their rights and responsibilities under the Stafford Act.
- b. The eligibility requirements of DUA.
- c. The disaster assistance period and potential weekly assistance amount if they are found eligible.
- d. The different types of deductions which may affect their application with emphasis on DUA eligibility.
- e. Reporting and filing requirements.
- f. The individual's appeal rights from any adverse decision affecting the individual's application.

g. It should be emphasized to applicants that they will be responsible for giving correct answers to questions asked by State agency representatives and that verification may be made as to the correctness of all information furnished. Particular emphasis should be given to applicant employment information provided on the initial application. The applicants should be informed that these are Federal funds and warned of the penalties for willfully making false statements or concealing information that is material to their application. The significance of the certification the individual will sign each week that DUA is claimed shall be stressed.

5. Example of Initial Application for DUA.

a. **Purpose and Use.** This is an example of a form that serves the purposes of the initial application, affidavit of employment (including self-employment) and earnings, and obtaining other information used in determining the applicant's entitlement and eligibility for DUA.

b. **Facsimile.** See Appendix F-1 for an example of an Initial Application for Disaster Unemployment Assistance.

c. **Use of Alternative Forms.** States may use an alternate form in lieu of the example of the Initial Application for Disaster Unemployment Assistance contained in this Handbook (see Appendix F and Chapter I, Section 11.d., page I-6).

6. Examples of Supplementary Forms.

a. **Purpose and Use.** As discussed in paragraph 3.e. above, these are examples of forms that may be used to obtain additional information from a self-employed applicant to determine whether the applicant is unemployed due to the major disaster. Answers to questions on this form will assist the State in making a proper determination of an applicant's eligibility for DUA.

b. **Facsimile.** See Appendices F-2 and F-3 for an example of supplementary eligibility forms.

c. **Use of Alternative Forms.** States may use alternate forms in lieu of the examples of the supplementary eligibility forms for DUA contained in this Handbook (see Appendix F and Chapter I, Section 11.d. page I-6).