

UNEMPLOYMENT INSURANCE
DISASTER UNEMPLOYMENT ASSISTANCE HANDBOOK**DETERMINING MONETARY ELIGIBILITY****I**NTRODUCTION

1. **Weekly Assistance Amount (WAA) of DUA.** There are different formulas for determining the WAA for an individual filing a DUA claim under the law of a State with an approved UC law and an individual filing in Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, or the Republic of the Marshall Islands.

In all jurisdictions, upon the filing of an initial application for DUA, the agency shall immediately determine a weekly amount based on the individual's statement of employment and wages or self-employment income, as the case may be, or based on State agency records or records submitted by the individual at the time of filing. (*See 20 CFR 625.6(e).*) Since all weeks of unemployment for which an applicant is eligible in a disaster assistance period are compensable, if the individual is otherwise eligible, it is not necessary to compute a maximum assistance amount. The Department views an immediate determination as being one made no later than the end of the business day following the day of application. In addition, if the individual's statement does not provide enough detail or justification to warrant a determination under section 2. a. below, in order to minimize any payment errors, a minimum WAA made under section 2. b. below may be the only WAA that can be determined immediately.

COMPUTATION**2. Determining a WAA in States With Approved UC Laws.**

a. **WAA Computation Under State UC Law.** In States with approved UC laws, the amount of DUA payable to an unemployed worker or unemployed self-employed individual for a week of total unemployment shall be the computed weekly benefit amount the applicant would be entitled to under State UC law had all the applicant's employment and wages, including earnings in another State, both covered and noncovered, or self-employment income been included as employment and wages under State law. (*See 20 CFR 625.6(a)(1).*) In no event shall a DUA WAA be greater than the maximum weekly benefit amount for UC authorized by the applicable State law. (*See 20 CFR 625.6(a).*) In computing an applicant's DUA WAA, the **base period** to be utilized **shall be the most recent tax year** that has ended for the individual (whether an employee or self-employed), prior to the individual's unemployment that was a direct result of the major disaster. (*See 20 CFR 625.6(a)(2).*) Net income for the tax year reported by a self-employed individual must be allocated equally for the period(s) needed under State UC law to compute a WAA (i.e., quarterly, weekly, etc.) unless the documentation submitted in accordance with 20 CFR 625.6(e) supports a different allocation.

Wages, as used in the computation of DUA entitlement, mean gross wages paid to a worker. Wages for a self-employed individual, as used in computation of DUA entitlement, means the net income from services performed in self-employment. (*See 20 CFR 625.2(u).*)

All employment and wages, whether or not covered under the applicable State law, and self-employment and income shall be treated in the same manner and with the same effect as covered employment and wages. However, employment and wages and self-employment and income the use of which is prohibited by any Federal law, shall not be used in the determination of DUA entitlement. (*See 20 CFR 625.6(a)(1).*) This Federal law prohibition excludes using wages earned by an alien unless the alien earned the wages while in a certain immigration status as set out in section 3304(a)(14)(A) of the Federal Unemployment Tax Act (26 U.S.C. 3304(a)(14)(A)). Another example of a Federal law prohibition against using certain wages earned by individuals in an instructional, research, or principal administrative capacity for an educational institution during the period between two academic years or terms if the individuals have a contract or reasonable assurance of performing such services in a second year or term after having performed such services in the first term or year (26 U.S.C. 3304(a)(6)(A)).

(1) **Distribution of Family Wages/Income.** As of the date of filing an initial application for DUA, family members **over the age of majority**, as defined under the statutes of the applicable state, shall have the wages from such employment or net income from the self-employment allocated equally among such adult family members for purposes of computing a weekly amount, unless the documentation of employment and wages or self-employment income substantiate a different allocation. Such family members must have been customarily or routinely employed or self-employed as a family unit or in the same self-employment business prior to the individuals' unemployment that was a direct result of the major disaster. (*See 20 CFR 625.6(a)(3).*)

Family members **under the age of majority**, as of the date of filing an initial DUA application, shall have a weekly amount computed based on the actual wages earned or paid for employment or self-employment rather than an equal allocation. (*See 20 CFR 625.6(a)(3).*) In some cases, this amount may be equal to the equal allocation for adult family members.

(2) **Unemployed Worker - 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 determine the applicant's WAA based on the applicant's employment and wages, if such individual had tax year base period earnings. The State must also determine a WAA based on the deceased head of household's tax year base period employment and earnings. If both computations are applicable, such as when a grandparent having a separate residence and income becomes the new breadwinner, the individual's shall be determined entitled to the higher WAA.

Except for the example discussed above, the deceased wage earning head of household must have provided, through employment for wages or self-employment income, one-half or more of the household income or means of livelihood during the tax year base period utilized for purposes of computing a DUA WAA, or would have provided such income but for unemployment during the tax year base period.

MINIMUM AMOUNT

b. Minimum Weekly Amount. If the WAA computed under the State UC law provisions in paragraph a. above is less than 50 percent of the amount of the average weekly payment of UC in the State, as provided quarterly by the Department, or, if the individual has insufficient wages from employment or insufficient or no net income from self-employment in the applicable tax year base period to compute a WAA, the individual is entitled to a WAA equal to 50 percent of the average weekly payment of regular compensation in the State, with certain exceptions for part-time workers (See next paragraph). (*See also, 20 CFR 625.6(b).*)

(1) Part-time Workers/Self-employed Individuals. If an individual was customarily or routinely employed or self-employed less than full-time prior to the individual's unemployment as a direct result of the major disaster, such individual's weekly amount is determined by calculating the percent of time the individual was employed or self-employed compared to the customary and usual hours per week that would constitute the average hours per week for year-round full-time employment or self-employment for the occupation, then applying the percentage to the determined 50 percent of the average weekly amount of regular compensation paid in the State. For example:

Minimum weekly DUA amount

(50% of average wkly UC amt.) = \$90.00

Full time hrs for the occupation = 40

Usual hours worked = 20

Reduction (20 hrs is 50% of 40) = 50%

DUA payable = \$45.00 (50% of \$90.00)

The State agency shall use information furnished by the applicant at the time of filing an initial application for DUA and any labor market or occupational information available within the State agency to determine the average hours per week for full-time employment or self-employment for the occupation. If the WAA computed for an individual under this paragraph (part-time computation) is less than the WAA computed under paragraph a. above (State UC law computation), the individual is entitled to the higher weekly amount. In addition, the WAA determined under this paragraph, if not an even dollar amount, shall be rounded up or down in accordance with the applicable State law. (*See 20 CFR 625.6(b)(2).*)

(2) Commencement of Employment or Self-Employment. If an individual is unemployed directly due to the disaster because he/she was to commence employment or self-employment on or after the disaster beginning date and was prevented from doing so as a direct result of the disaster, and such individual has no tax year base period earnings to compute a DUA WAA under paragraph a. (State UC law provisions), such individual will receive a DUA WAA determined under the provisions of paragraph b. (50 percent of the State average UC amount). (*See 20 CFR 625.6(b)(1).*)

3. Determining WAA in Guam and the Commonwealth of the Northern Mariana Islands. The DUA WAA payable to an unemployed worker or self-employed individual for a week of total unemployment is the average of the UC amounts payable under all states having an approved UC law. The WAA determined, if not an even dollar amount, shall be rounded to the next higher dollar. (See 20 CFR 625.6(c).

4. Determining WAA in American Samoa, the Trust Territory of the Pacific Islands, the Federated States of Micronesia, or the Republic of the Marshall Islands. The DUA WAA payable to an unemployed worker or self-employed individual for a week of total unemployment shall be the amount agreed upon by the ETA Regional Administrator, San Francisco, and FEMA Federal Coordinating Officer assigned for the disaster. Such amount shall approximate 50 percent of the area-wide average of the weekly wages (rounded to the next higher dollar if not an even dollar amount) paid to individuals in the major disaster area in the quarter immediately preceding the quarter in which the major disaster began. (See 20 CFR 625.6(d).)

DOCUMENTATION

5. Documentation of Wages/Income Used in Determining the WAA. In the case of a WAA determined in accordance with paragraphs 2. through 4. above, based on the individual's statement, the individual shall furnish documentation to substantiate the employment or self-employment or wages earned from or paid for such employment or self-employment or documentation to support that the individual was to commence employment or self-employment on or after the date the major disaster began but was prevented from doing so. Such documentation must be submitted within 21 calendar days starting the day after filing the initial DUA application. (See 20 CFR 625.6(e) and (e)(1).) If the 21st day ends on a holiday, weekend, or other non-business day, the 21st day shall be the next business day.

6. Redeterminations.

a. Failure to Provide Required Documentation. Any individual who fails to submit documentation to substantiate employment or self-employment or the planned date of commencement of employment or self-employment, shall be determined ineligible for the payment of DUA for any week of unemployment due to the disaster. Any weeks for which DUA was already paid on the application prior to the date of the determination of ineligibility are overpaid and a determination shall be issued in accordance with 20 CFR 625.14(a). In addition, the State agency shall consider whether the individual's failure to submit documentation would warrant a disqualification for fraud in accordance with the provisions set forth in 20 CFR 625.14(i). (See 20 CFR 625.6(e)(2).)

b. Partial Submittal of Documentation. For purposes of a computation of a weekly amount under paragraph 2.a. of this chapter (State UC law provisions), if an individual submits documentation to substantiate employment or self-employment within 21 days, but does not submit documentation of wages earned or paid during the tax year base period, including those cases where the individual has not filed a tax return for the most recent tax year that has ended, the State agency shall immediately redetermine the DUA WAA payable to the individual downward to pay the individual only 50 percent of the average UC weekly amount. (See 20 CFR 625.6(e)(3).)

c. Late Submittal of Wage Documentation. Any individual who was redetermined downward in accordance with paragraph b. above, because he/she only submitted employment or self-employment documentation but not wage documentation, may submit necessary documentation to substantiate wages earned or paid during the tax year base period at any time prior to the end of the disaster assistance period. A redetermination upward of the DUA WAA shall immediately be made if the wages earned or paid for services performed in employment or self-employment are sufficient to permit the higher DUA WAA computation under State UC law provisions as stated in paragraph b. above. The higher redetermined DUA WAA will be applicable to all weeks paid during the disaster assistance period. (*See 20 CFR 625.6(e)(4).*)

7. Example of Notice of Determination of Entitlement.

a. Purpose and Use. This form is to inform an applicant of a determination or redetermination of entitlement or nonentitlement to DUA. It will also inform the applicant of appeal rights.

b. Facsimile. See Appendix F-4 for an example of a Determination of Entitlement form.

c. Use of Alternative Forms. States may use an alternate form in lieu of the example of the Notice of Determination of Entitlement contained in this Handbook (see Appendix F and Chapter I, Section 11. f.)