

UNEMPLOYMENT INSURANCE
DISASTER UNEMPLOYMENT ASSISTANCE HANDBOOK**WEEKLY CLAIMS AND ELIGIBILITY****I**NTRODUCTION

1. **Week of Unemployment Due to Major Disaster**. An applicant's continued eligibility will be determined on a week-to-week basis. For an applicant to be determined eligible for DUA for a week of unemployment (total, partial, part-total), such unemployment must continue to be a direct result of the major disaster. Once an applicant's unemployment is no longer attributable directly to the major disaster, the applicant's entitlement to DUA ends. One exception is where an individual is unemployed directly due to the disaster but is hired, through a Federal, State, or local government program, to work full-time for a short duration (e.g., 4, 5, or 6 weeks) to assist in disaster clean-up and recovery efforts. At the end of the project, the individual may still be considered unemployed directly due to the disaster, if he/she cannot resume the regular employment. Another exception can occur with self-employed individuals, wherein the patterns of self-employment permit an individual to receive DUA for a period, then be ineligible for a period, then resume DUA. For example, a self-employed farmer may be unemployed due to the disaster for several weeks, then reach a period of time where such farmer is normally unemployed due to seasonal inactivity, then is again unemployed directly due to the disaster for a few weeks.

2. **Retroactive Weeks Claimed**. Determinations as to weeks of unemployment between the date on which the major disaster began and the date the initial application was filed will be based on the information provided by the applicant at the time of filing an initial application. The State will determine the applicant's eligibility for each week of unemployment in the disaster assistance period claimed retroactively. State agencies may issue one check covering the total DUA amount due from the beginning or may issue separate checks for each week payment is due.

3. **Period for Which DUA is Payable**. In accordance with the Act, DUA will be available to an applicant for each week of unemployment in the disaster assistance period that the applicant's unemployment, caused by the major disaster, continues or until the applicant is re-employed in suitable employment or if claimant earns enough disqualifying income to reduce his weekly amount to zero. If, for example, a major disaster begins on a Thursday in a calendar week state, DUA is payable for the week beginning on the Sunday, three days after the disaster period began. (*See 20 CFR 625.2(e) and (f)*). DUA will not be available for any week of unemployment which begins prior to the disaster assistance period or after the end of the disaster assistance period.

ELIGIBILITY

4. Eligibility Requirements. An applicant is eligible for DUA for a week of unemployment if he or she meets the following conditions (*See 20 CFR 625.4*):

- a. Each week of unemployment claimed begins during the disaster assistance period; and,
- b. The individual is an unemployed worker or an unemployed, self-employed individual whose unemployment (total, partial or part-total) has been found to be the direct result of a major disaster in the major disaster area; and,
- c. The applicant is able to work and available for work, within the meaning of the applicable State law, except an applicant will be deemed to meet this requirement if any injury directly caused by the major disaster is the reason for inability to work. (DUA will be issued to the new breadwinner or head of household in lieu of the decedent. However, the new head of household must otherwise meet DUA eligibility requirements, including the able and available requirement.) If the applicant is an alien, the applicant must also be a qualified alien authorized to work for each week claimed. Services or activities performed solely to enable an unemployed self-employed applicant to resume self-employment will not be considered a basis for being unavailable for work; and,
- d. The individual is not eligible for compensation (as defined in 20 CFR 625.2(d)) or for waiting period credit for such week under any other Federal or State law; except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit; and,
- e. The individual is ineligible for compensation or waiting period credit if the individual is under a disqualification for a cause that occurred prior to the individual's unemployment due to the disaster, or for any other reason is ineligible for compensation or waiting period credit as a direct result of the major disaster.

If an individual is filing for DUA retroactive weeks of unemployment in a State that does not allow retroactive UC applications and payment of regular unemployment compensation for such weeks, and issues a denial for such weeks of regular UC, DUA may be paid for those weeks.

5. Deductible Income/Benefits. The weekly DUA amount will be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application thereof and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment (*See 20 CFR 625.13(a)*):

- a. Any benefits or insurance proceeds from any source not defined as "compensation" under the DUA regulations for loss of wages due to illness or disability;
- b. A supplemental unemployment benefit pursuant to a collective bargaining agreement.
- c. Private income protection insurance;
- d. Any workers' compensation by virtue of the death of the head of the household as the result of the major disaster in the major disaster area, prorated by weeks, if the individual has become the head of the household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area;

e. The prorated amount of a retirement pension or annuity under a public or private retirement plan or system, prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from regular compensation payable under the applicable State law; and

f. The prorated amount of primary benefits under Title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law.

Regarding private income protection insurance payments, 20 CFR 625.13 provides that the DUA WAA is reduced by the amount that the individual has received, is receiving, or would be receiving for the week if an insurance claim was filed. Coverage under private income insurance policies vary in their protection against losses. Whenever an issue arises over coverage, the agency has a responsibility to attempt to review the policy to resolve the issue. A copy of the insurance policy should be obtained from a DUA applicant or the insurance company to verify if the policy provides for loss of income so that the DUA weekly amount payable can be reduced. The applicant will be required to provide the information as soon as possible and will be encouraged to continue to file weekly claims for DUA until the needed information is submitted. If the individual refuses a request to provide the policy and a copy cannot be obtained from the insurance company, then the individual must be determined ineligible.

6. Able and Available for Work. An applicant, to receive DUA must be able to work and available for work according to State law requirements but if the applicant's inability to work is the result of an injury caused by the major disaster, the applicant will be deemed to meet this requirement. An unemployed self-employed applicant will not be considered unavailable for work if he or she is engaged in activities solely for the purpose of resuming self-employment. (*See 20 CFR 625.4(g).*) An applicant shall also be considered to meet the State law able and available requirements if he/she is enrolled in approved training as determined by the State agency. Availability for work is required to be waived under state law for individuals enrolled in approved training.

When the State agency receives information from an applicant which indicates that the applicant has become disabled and this disability is not due to the major disaster, the State agency will apply the able and available provisions of the applicable State law for the period of the disability. If the State agency determines the applicant is not able and available, the applicant will not be eligible for DUA during the period of the disability. The applicant will be notified of the determination and the right of appeal.

7. Registering for Work with Job Service. Applicants for DUA should register for work with the Job Service when they file their initial applications, or at such time as the State agency may direct. They are to be provided such employment services (including counseling and referral to suitable work opportunities and suitable training) as will assist them in returning to work. Consideration should be given in situations where physical incapacitation or lack of transportation are due to the disaster and prevent registering in person. (*See 20 CFR 625.3.*)

8. Suitable Work. In determining whether work is suitable, the suitability criteria in the State unemployment compensation law, including the labor standards provisions required by Section 3304(a)(5) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3304(a)(5)) will be used.

Employment in a Federal, State or locally funded temporary job designed to assist in clean-up or other activities to enable the community to recover from the effects of the major disaster is not employment that renders the individual ineligible for further DUA once the temporary job ends. Such temporary employment is **not** considered to be a return to suitable employment. (*See 20 CFR 625.13(b).*)

9. Week of Partial or Part Total Unemployment.

a. Unemployed Worker. If an applicant indicates that he or she worked in employment or resumed self-employment during the week for which a DUA payment is claimed, the applicant may be entitled to a reduced DUA payment. The DUA WAA for such applicant for that week will be reduced by the wages to the same extent as they would be deductible under State law (*see 20 CFR 625.6(f)(1)*). In accordance with 20 CFR 625.2(u), "Wages" means remuneration for services performed for another, or, as set forth in 20 CFR 625.6(f)(2), gross income from services performed in self-employment. It does not include vacation, holiday or severance pay. For example, a DUA applicant with a WAA of \$80 earned \$31.75 for a week in a State where only earnings in excess of \$10 are deductible:

DUA WAA	\$80.00
Earnings:	\$31.75
Reduction:	\$21.75 Earnings over \$10.00
Balance:	\$58.25
DUA payable:	\$59.00 (rounded to next higher dollar under state law)

The rounding of the DUA payment to the next higher or lower dollar amount, in accordance with State law, will be made after all deductions have been made. (See 20 CFR 625.6(f)(1) and (2)).

b. Unemployed Self-employed Individual. The weekly amount of DUA payable to an unemployed self-employed individual for a week of partial or part-total unemployment shall be the weekly amount determined under paragraphs (a), (b), (c), or (d) of 20 CFR 625.6, as the case may be, reduced (but not below zero) by the full amount of any income received during the week for the performance of services in self-employment, regardless of whether or not any services were performed during that same week. This reduction is in accordance with provision in 20 CFR 625.6(f)(1). Notwithstanding the definition of "wages" for a self-employed individual under 625.2(u), the term "any income" for purposes of applying this reduction means gross income (*see 20 CFR 625.6(f)(2)*). (*See also, Chapter IV of this Handbook.*)

10. Termination of DUA. The State agency must determine for each week claimed whether an applicant meets the eligibility requirements for DUA. The specific circumstances of each applicant's case will govern the termination of the applicant's DUA prior to the expiration of the disaster assistance period. Such termination is made when it has been determined an applicant's unemployment is no longer directly attributable to the major disaster.

11. Example of Weekly Request for Assistance.

a. Purpose and Use. This section provides an example of a form designed to serve multiple purposes: (1) by an applicant to claim DUA on a weekly basis; (2) by the State to determine the amount of DUA that is authorized for payment; and (3) by the State to notify the applicant of the reduction, denial or termination of the DUA payment including providing appeal rights.

States are not required to duplicate this sample form for use. The State is authorized to develop its own DUA form, or use the same form used for its UC program. States may also allow DUA claimants to file by telephone or other electronic means. However, any method used by the state must provide for obtaining essential information for DUA claims. See Chapter I, Item 11 f.

b. Facsimile of Form. See Appendix F for an example of a Weekly Request for Assistance form.

c. Use of Alternative Forms. States may use alternate forms in lieu of the example of the weekly claim form for DUA contained in this Handbook (See Appendix F and Chapter I, Section 11.f.).