

UCFE INSTRUCTIONS FOR STATE AGENCIES

CHAPTER VIII - APPEALS

1. UCFE – Applicability of State Appeal Procedure.

Determinations involving entitlement to, and eligibility for, UC for Federal civilian employees may be appealed in the same manner and under the same procedures as determinations under the applicable State UC law. UCFE decisions will follow the format and criteria used for regular State UC decisions. However, UCFE Federal findings, as shown on Forms ES-931 and/or ES-934, must be identified and included, preferably by direct quotation, in the appeal decision's statement of facts. The same time periods for filing appeals, notices of hearing, etc., used in regular State UC appeals will be used for UCFE appeals. Appeals on interstate UCFE claims are to be processed like regular interstate UC appeals.

2. Forms Used for UCFE Appeals.

Regular benefit appeal forms used by SWA may be used if such forms are modified to show that the decisions of the State administrative appellate authority is in connection with a former Federal civilian employee's claim for benefits under Federal law (5 U.S.C. Chapter 85). The symbols "UCFE," or "UCFE-UCX" as appropriate, will be placed on each decision to distinguish it from other benefit decisions.

3. Action by SWA on UCFE Appeals.

A UCFE claimant filing a request for an appeal shall be given the same consideration under State law as a State UC claimant. In making such a decision, SWA shall apply its State UC law to the facts supplied by the Federal agency on Forms ES-931, ES-931A, and ES-934, as well as credible information obtained from the claimant or from any other reliable sources of information.

The decision rendered shall be based upon the evidence and best information available that the appellate authority considers credible. Federal findings as shown on Forms ES-931, ES-931A, and ES-934 are not negated from consideration by the failure of a Federal agency representative or claimant to be present at the hearing. The claimant shall receive a copy of the appeal decision with notice of his/her further appeal rights under the State law. UCFE appeals decisions should clearly reflect all

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appellate findings of fact which are relevant in support of the decision made under the State UC law. Also, provisions of the State law on which the decision is based should be clearly cited.

4. UCFE Appeals While Personnel Action Appeal is Pending.

A UCFE claimant may appeal a SWA determination even though he/she is concurrently appealing the personnel action on which the Federal agency's finding was based. The State administrative appellate authority should not postpone holding an appeal hearing and rendering a decision either to allow or to deny UCFE benefits pending receipt of a Federal agency or Office of Personnel Management decision. Any appeal decision of the SWA in a UCFE case may be reopened, remanded for a redetermination (as applicable under State law) when the SWA is notified of the Federal agency's findings based on the final decision of the highest administrative level of the U.S. Office of Personnel Management or the former Federal employing agency, or the final decision of a court to which the personnel action appeal or grievance was taken. The SWA's new UCFE decision or redetermination is subject to appeal as in any other State UC case. In determining whether or not a redetermination or further appeal is permissible under State law, the same consideration must be afforded to the UCFE claimant by the SWA, as that given a State UC claimant who had a grievance resolved by or finalized with a private employer or court decision.

5. Action by SWA on Federal Agency UCFE Appeals.

Federal agencies are entitled to receive notices of determination and have the same right of appeal as State-covered employers respecting benefit determinations under State UI laws.

6. Forwarding Appeal Decisions.

SWAS should forward one copy of UCFE appeal decisions to the appropriate USDOL Regional office, as provided by 20 CFR 609.1 (d) (1).