

UIPL 01-82 Attachment II

Draft Language and Suggested Changes to Implement Sections 2335, 2401 through 2405, 2505 and 25,06 of P.L. 97-35

1. Section 2335 - Child Support Intercept of Unemployment Benefits

Amendments to implement the provisions of revised Section 303(e)(2) of the Social Security Act can be included under those State law provisions pertaining to deductions required from amounts of benefits received by an individual. This change in State law may be made effective anytime, but it is a requirement for State law effective October 1, 1982. We recommend for consistency with this new Federal law requirement that the State use the following draft language:

1(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes child support obligations as defined under subsection (g). If any such individual discloses that he or she owes child support obligations, and is determined to be eligible for unemployment compensation, the commissioner shall notify the State or local child support enforcement agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under subsection (g),

(A) the amount specified by the individual to the commissioner to be deducted and withheld under this subsection, if neither nor (B) nor (C) is applicable, or

(B) the amount (if any) determined pursuant to an agreement submitted to the commissioner under Section 454(20)(B)(i) of the Social Security Act by the State or local child support enforcement agency, unless (C) is applicable, or

(C) any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process (as that term is defined in Section 462(e) of the Social Security Act) properly served upon the commissioner.

(c) Any amount deducted and withheld under subsection (b) shall be paid by the commissioner to the appropriate State or local child support enforcement agency.

(d) Any amount, deducted and withheld under subsection (b) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the State or local child support enforcement agency in satisfaction of the individual's child support obligations.

(e) For purposes of subsections (a) through (d), the term "unemployment compensation" means any compensation payable under this Act (including amounts payable by the commissioner pursuant to an agreement under any Federal law providing for compensation, assistance, or allowances with respect to unemployment).

(f) This section applies only if appropriate arrangements have been made for reimbursement by the State or local child support enforcement agency for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the State or local child support enforcement agency.

(g) The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan described, in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act. 1/

(h) The term "State or local child support enforcement agency" as used in these provisions means any agency of this State or a political subdivision thereof operating pursuant to a plan described in subsection (g). 1/

2. Section 2401 -- Elimination of the National Extended Benefits Trigger

The amendments eliminating the national trigger can be implemented under State law by eliminating all sections or provisions and references pertaining or related to the national trigger that are contained in the State law provisions for the extended benefits program. Pending a change in the State law, it should be construed so, as to be in conformity after August 13, 1981.

3. Section 2402 -- Claims For Extended or Additional Compensation not Included in Determining Rate of Insured Unemployment

States that enacted a provision defining the "rate of insured unemployment" under the extended-benefit provisions prescribed in the State law, and used language as recommended on page 121 of the Draft Legislation to Implement the Employment Security Amendments of 1970 for that purpose, should revise the State law provisions comparable to language in paragraph (6) in part to read as follows:

"(6) "Rate of insured unemployment," for purposes of paragraphs (4) and (5) of this subsection, means the percentage derived by dividing (1) the average weekly number of individuals filing claims for regular compensation in this State for weeks of unemployment with respect to the most recent 13-consecutive-week period..."

4. Section 2403 -- Change in State Trigger for Extended Compensation

States should amend the State "on" and "off" indicators in their extended benefit provisions by deleting references to "4" percent and substituting in lieu thereof the figure "5" percent. Similarly States that enacted the 5 percent optional trigger should amend the figure "5" contained in that provision to read "6".

States that now wish to adopt a "6 percent" optional trigger should use the draft language contained on page 77 of the Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976 - P.L. 94-566 except the language on line 7 should be revised to read: "figure '5' contained in subparagraph (B) thereof were '6'.. ."

5. Section 2404 -- Qualifying Requirement for Extended Compensation

Changes to meet the requirements of Section 202(a)(5), EUCA, as revised by Section 2404 of P.L. 97-35 will depend on the equivalent qualifying method selected by the State if the law does not meet the 20 weeks of full-time insured employment requirement. The State may pursue one of two courses if its present qualifying requirements do not meet those specified by Section 202(a)(5), EUCA -- (1) it may amend its law by changing the existing qualifying requirement for regular benefits to satisfy the Federal law provision, and thereby alter such requirement for all claimants; or (2) it can retain its present qualifying requirements and add a qualifying requirement meeting Section 202(a)(5) that would be applicable only to claimants for extended benefits.

Many State laws now contain qualifying requirements of the types specified by Section 202(a)(5) EUCA. The following current State law provisions are examples of qualifying requirements of the type that would accord with Section 202(a)(5), EUCA:

(a) Provisions Requiring 1 1/2 Times High Quarter Wages

(1) "An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that the individual:

has been paid wages for insured work during the individual's base period equal to at least*one and one-half times the wages paid in that calendar quarter of the individual's base period in which such wages were highest..."

(2) "...provided insured wages paid such individual during two or more quarters of his base period and the total of such wages equal or exceed 1.5 times the total insured wages paid such individual in that quarter of his base period in which such total wages were highest."

(b) Provisions Requiring 40 Times the Weekly Benefit Amount

"An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found that:

he has been paid wages by an employer who was subject to the provisions of this chapter during the base period of his current benefit year in an amount at least equal to the greater of forty times his benefit rate for total unemployment..."

(c) Provisions Requiring 20 Weeks of Employment

"An individual shall be eligible to receive benefits with respect to any week only if the division finds that:

he has been paid wages for insured work equal to 20 times his average weekly wages during his base period, except that no unemployed individual shall be eligible to receive benefits if his average

weekly wage is less than ..."

6. Section 2405 -- Eligibility Requirements for Ex-Servicemembers

This amendment will require no changes in the State law, since the change made by Section 2405 will be implemented by the States through the agreement to administer the UCX program.

7. Section 2505 -- Limitation on Amount of Combined UI and TPA Benefits Received

The following draft language is provided to implement the provisions in Section 233(d) of the Trade Act of 1974:

"Notwithstanding any other provisions of this chapter, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

8. 2506 -- Prohibition Against Disqualification of Individuals in Training Approved Under Section 236(a)(1) of the Trade Act of 1974

The following draft language is offered for purposes of satisfying the requirements of Section 236(a)(2) of the Trade Act of 1974 which must now be met under State laws as a condition for certification by the Secretary of Labor:

"Notwithstanding any other provisions of this chapter, no otherwise eligible individual shall be denied benefits for any week because he or she is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall such individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this law (or any applicable Federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work.

"For purposes of this section, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than 80 percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974."

1/ The definition of these two terms is as specifically provided in the last sentence of Section 303(e)(1) and 303(e)(4) of the Social Security Act respectively, with only such changes as are necessary to fit the definitions within the context of the draft provisions.