

# **Unemployment Compensation for Federal Employees (UCFE) Federal Agency Responsibilities Related to UCFE: Guide to Responding to Wage and Separation Information Requests (Form ETA 931)**

## **Purpose**

This Guide is intended to provide Federal government agency employers with information on their responsibilities for responding to state Unemployment Insurance (UI) agencies when their ex-employees file for Unemployment Compensation for Federal Employees (UCFE) benefits. Because Federal agency employers pay for the unemployment benefits of eligible ex-employees on a dollar for dollar basis, it is fiscally prudent for Federal agencies to ensure they are providing responses to these inquiries.

## **Background**

The UI program is a federal-state partnership that provides unemployment benefits to eligible workers who are unemployed through no fault of their own and meet other eligibility requirements of state UI law. Each state administers their individual UI program within guidelines established by Federal law.

Subchapter I of chapter 85, title 5 of the United States Code (U.S.C.), as amended by Public Law 94-566, 90 Stat. 2667, 5 U.S.C. 8501-8509, provides for a permanent program for unemployed Federal civilian employees. The US Department of Labor's Employment and Training Administration (ETA) has entered into agreements with each of the 53 state UI agencies requiring the state UI agencies to operate the UCFE program in accordance with the eligibility requirements for the state's regular UI program and proscribed in state law.

The UCFE program provides a weekly benefit for a limited period to unemployed Federal civilian workers who qualify for benefits under state UI law. When UCFE claims are filed in a state, the state is responsible for:

- *Processing UCFE claim applications, determining eligibility, and making timely payments when due; and*
- *Preparing summary statements of benefits paid related to Federal agency charge notices.*

The determination of a claimant's eligibility for benefits is a critical UI program function. To qualify for benefits, individuals must meet both monetary and non-monetary eligibility requirements. When a state detects UI eligibility issues at the initial claim filing stage or during the continued claim series, the state will determine the claimant's non-monetary eligibility. These determinations may affect an employer's liability for benefit charges. Employers, including Federal employers, are responsible for responding timely to requests for information from the state UI agency. States request wage and separation information from Federal employers via the form ETA 931, *Request for Wage and Separation Information*. Federal agencies should respond to ETA 931 requests within 12 days of the mailing date of the form to avoid delays in the claims filing process and to prevent improper payments charged to the Federal agency.

### *Monetary Eligibility Requirements:*

- Applicants must have an attachment to the labor force, and
- Applicants must have sufficient employment and wages to meet the state's UI wage qualification requirements. State law determines whether the individual has sufficient employment and wages.

Monetary entitlement is determined using employment and wages in the state's "base period," which in many states is the first four of the last five completed calendar quarters that precede the effective date of the claim. However, state laws vary with regard to monetary entitlement. Many states also consider wages in an alternative base period if an applicant fails to have sufficient wages in the regular base period. An alternative base period is the four most recently completed calendar quarters.

### *Non-Monetary Eligibility Requirements:*

- Individuals must be separated from employment for non-disqualifying reasons under a state's UI law. States must adjudicate work separations that occur for reasons other than a lay-off or lack of work. Separations that require adjudication include:
  - Voluntary quits, which occur when employees choose to leave their employment. In general, voluntary separations are adjudicated based on whether the individual had *good cause* for leaving a job, which in many states means *good cause connected with the work*. Some state UI laws recognize certain personal reasons in determining "good cause" (such as domestic violence or quitting to preserve family unity). Employees who quit a job generally have the *burden of proof* to establish whether they had good cause for quitting. Some common reasons for voluntarily quitting a job include:
    - Relocated/moved to follow a spouse;
    - Accepted other work;
    - Attended school;
    - Quit due to domestic or marital reasons;
    - Quit due to dissatisfaction with working conditions;
    - Harassed (allegedly) by co-worker;
    - Abandoned job (reason unknown);
    - Quit in lieu of discharge (may be treated as a discharge under the state UI law); and
    - Retired.

Depending on a state's law, some of these reasons may constitute good cause for the separation from employment allowing the applicant to be considered eligible for benefits.

- Discharges (also called terminations or removals) occur when the employer terminates the employment relationship for reasons other than a lay-off or lack of work. In general, a discharge is adjudicated in terms of whether the discharge was due to *misconduct*, and generally means misconduct *in connection with the work*. If the state determines there was a discharge for misconduct in connection with the work, a disqualification may result. Misconduct may be defined as a willful or

controllable breach of an employee's duties, responsibilities, or behavior that the employer has a right to expect. Stated another way, the misconduct may be an act or an omission that is deliberately or substantially negligent, which adversely affects the employer's legitimate business interests. In general, employers have the *burden of proof* to establish that misconduct was present for separations resulting from a discharge. There are numerous reasons an employer may discharge an employee.

Some common reasons for discharge include:

- Absenteeism;
  - Insubordination;
  - Fighting on the job;
  - Violation of company rule(s);
  - Falsification of work record(s);
  - Harassment of coworker(s);
  - Drinking on the job;
  - Safety violation(s); and
  - Theft.
- To maintain continued eligibility during each week in the claim series, individuals must be able to work, available to work, actively seeking work, and must not refuse suitable work. If a claimant is referred to a potential employment opportunity or offered new employment, an issue may arise that needs to be adjudicated. If the job offer was made by a Federal agency, but turned down, the Federal agency may be contacted for information related to the offer of work. Refusal of suitable work or failure to apply with an employer (when referred by the state agency) without *good cause* under the state UI law may result in a disqualification.
- Individuals must also report any new work/earnings or other income while filing for benefits, which may need to be confirmed with the applicable employer(s). Certain types of remuneration, such as wages in lieu of notice, dismissal wages, workers' compensation, holiday and vacation pay, back pay, and any supplemental unemployment benefits paid under a private plan may result in a disqualification for or deduction of benefits. In many states, if wages or other income is less than the weekly benefit amount, individuals may receive the difference. Other states may deny benefits regardless of the amount of wages or other income.

Some of the information the state may request from Federal employing agencies to adjudicate non-monetary issues include:

- The last physical day of work;
- The separation date (if different from the last physical date of work);
  - If there is a difference between the last physical day of work and the separation date, what caused the delay
- The reason for the separation from employment; and
- The final incident that led to the separation.

For separations due to a voluntary quit, the state will request the following information from Federal employing agencies:

- **Why did the employee quit?** It is necessary for the adjudicator to determine the specific reason the employee decided to leave work. If the reason for separation is straightforward, a clear statement to that effect is all that may be needed. For example, the applicant was part of a lay-off or reduction in staffing or voluntarily quit for retirement. However, the state may also request information related to any severance of annuity payments the individual may collect.
- **Was the reason for leaving personal or work related?** States may or may not have “good cause” provisions in their law. Therefore, it is important to distinguish whether the employee left because of work related matters or for non-work related matters. In adjudicating an issue involving a voluntary quit, the state will consider adverse effects of the situation on the claimant. Was the reason for leaving compelling? Would most reasonably/prudent persons in a similar situation quit employment? How severe or immediate were the harmful circumstances?
- **What were the conditions of work?** If the reason for leaving was work-related, the adjudicator will need to examine the conditions of work. What did the employee have a right to expect from the employer? The employment agreement may be verbal or written, a matter of union contract, peculiar to a specific job, or a specific health or safety regulation. The working conditions may also be considered unacceptable due to a violation of commonly accepted employer practices such as fair work assignments, health and safety regulations, etc.
- **What steps did the employee take to remedy the situation prior to leaving?** The employee is generally expected to pursue reasonable alternatives prior to quitting a job. For example: Did the employee ask for a transfer or a leave of absence? Did s/he pursue established grievance procedures? Did the employee give the job a fair trial?

For separations due to a discharge, the state may request some of the following information from Federal employing agencies:

- **Why was the employee discharged?** It is necessary to pinpoint the reason that an employer decided to discharge an employee. There may have been a number of incidents that occurred over a period of time; however, the state will attempt to pinpoint the incident(s), which finally led to the discharge. Employers need to advise the state of exactly what happened to cause the discharge or the series of events that led to the termination. It may be important to know what happened on the last day and how the employer’s interests were affected. It may be important to explain why the worker was not discharged immediately following an act or omission, which later caused the employer to discharge the worker.
- **What were the conditions of work?** Expected behavior that an employer has a right to expect may be outlined specifically in written agency or union agreements, policies, or rules. Practices or conduct peculiar to a particular job or a law or regulation, which governs health and safety practices to be followed by employers, may be covered by commonly accepted standard practices, which may be in writing.
- **What did the employer do to maintain the employer/employee relationship?** This type of question focuses on the efforts of the employer to control or prevent the behavior

that resulted in the discharge in order to establish both the reasonableness of the employer's action and the claimant's knowledge of the consequences related to the conduct. If warnings were given, the number of warnings and the reason for each warning, the dates of the warnings and the method used (verbal or written) may be requested. If the employer condoned the behavior in the past, the state agency may request explanations about why this occurred.

For issues involving payments after separation, the state may request the following information from Federal employing agencies:

- **What type of income did the claimant receive?** The type of income the claimant received/will receive (wages, remuneration, pensions, etc.) and the period to which it applies may be requested to determine the week(s) affected and the proper deduction(s), if any, from the claimant's weekly benefit amount.
- **What is the gross amount of income that the claimant received?** State UI agencies use the gross amount of income received to determine its impact on the claimant's weekly benefit amount (past, present, or future). The state may request information to verify the amount(s) received and the weeks to which the income is applicable to determine the amount of reduction, if any, required by the state law and/or policy.
- **If the claimant is receiving a pension, what percent was contributed by the employer?** It may be necessary for the state to know the amount the claimant and employer each contributed to a pension to determine the amount of deduction from the weekly benefit amount. Most states reduce benefits only when a "base period" employer (i.e., the employer's wages are used on the monetary determination) contributes to a pension plan. Also, some states reduce benefits based on contributions made by the individual and employer to the pension plan.
- **What period does the income cover?** The state agency must determine the period to which the income applies to establish the effective date of the deduction or disqualification and for any needed determinations.
- **Will the amount increase or decrease, and, if so, when?** The state may need information about future increases or decreases that may affect future weeks so that the claim is flagged for any future determinations needed that may modify the claimant's weekly benefit amounts and remaining benefit account balance.

For issues involving a refusal of work or referral to work, the state may request the following information from Federal employing agencies:

- **Was there a bona fide offer of work or referral to work?** The state must determine whether: 1) there was a genuine offer of work, and 2) the offer was successfully conveyed to the claimant. Fact-finding will include obtaining information regarding job duties, starting pay, hours of work, etc.
- **Was the work suitable?** Job suitability is determined by considering: 1) the claimant's skills, training, experience, and capabilities, and 2) federal/state standards that make the work suitable or not: (a) whether wages, hours, or other conditions of the work offered

are substantially less favorable than those prevailing for similar work in the locality, or (b) whether the position offered is vacant due directly to a strike, lockout, or other labor dispute or (c) whether, as a condition of employment, the individual would be required to join, to resign from, or refrain from joining a company union or bona fide labor organization.

**By responding timely and completely to UCFE information requests from the state UI agency, Federal agencies help ensure correct charges are assessed to the Federal agency and help maintain UCFE program integrity.** If you need additional information regarding UCFE claims and the Federal Agencies responsibilities related to UCFE claims; please refer to the [\*\*UCFE Instructions for Federal Agencies.\*\*](#)