

## UCFE INSTRUCTIONS FOR STATE AGENCIES

### CHAPTER VII - UCFE NONMONETARY DETERMINATIONS

#### 1. UCFE – Applicability of State Law Provisions.

The provisions of Federal law (5 U.S.C. 8502(b)) and the agreements between the Secretary of Labor and States require, with specified exceptions, that Federal civilian employees receive unemployment benefits in the same amount and under the same terms and subject to the same conditions as would have been applicable had the Federal civilian service and wages been included as employment and wages under the UC law of the State to which such service and wages have been assigned. **It is important to ensure that UCFE benefits are administered in accordance with this requirement.**

#### 2. UCFE Determination.

UCFE claimants will be given notices of nonmonetary determinations in the same manner that State UC claimants are given such notices. Copies of such notices will be sent to the Federal agency that provided information concerning the claimant. State agency practice should be followed in sending notices to appropriate private employers, in the same manner as is done for State UC claimants.

When a Form ES-931, Form ES-931A, or Form ES-934 has not been returned by the 12th day, the SWA will promptly make a determination based upon all information available. Information supplied by a Federal employer after a determination has been made will be given the same consideration as information supplied by a State-UC covered employer under similar circumstances.

It is necessary to use standard forms, such as Forms ES-931, ES-931A, and ES-934 to obtain information from Federal agencies. Procedures for forwarding these forms to Federal agencies have been devised to assure that Federal agency personnel, who are authorized to respond for the Federal agency, will furnish State agencies with the information requested.

In making a UCFE nonmonetary determination, a Form ES-934 is not required to obtain supplementary information to support a determination, if credible information that is not inconsistent with information shown on ES-931 can be obtained from the claimant or any other reliable source. Form ES-934 should be used, when the material information supplied by the claimant is inconsistent with the information shown on the Form ES-931, or when it is necessary to obtain possible correction or modification of the information furnished by the Federal agency.

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### 3. Adequacy of UCFE Determination.

In preparing UCFE determinations, the findings should be adequate to support the determination made under the State UC law. Findings that are material to the UCFE claim should be brief but clearly identified in the determination. The findings need not be elaborate in form or content, but should be complete, concise, and stated in specific terms so as to support the determination. Also, the reasons for the determination should be written in clear, non-technical language that can be understood by a layman. It is only through such an understanding that the UCFE claimant and Federal employer will have an adequate basis for deciding whether to institute an appeal.

a. **Federal Findings.** Federal law (5 U.S.C. 8506(a)) provides that Federal agencies shall make available such information concerning the Federal service and Federal wages of a Federal employee as the Secretary may direct for the purpose of determining the individual's entitlement to UCFE.

b. **Federal Agency's Correction of Its Findings.** If, at any time within 1 year from the date information was furnished on Form ES-931, a Federal agency ascertains that any of its findings with respect to a claim for UCFE were in error, it will correct such findings in accordance with Federal regulations (20 CFR Part 609.22). Upon receipt of such corrected Federal findings, SWA should make any necessary redetermination of entitlement permitted under the State law in the same manner as it would if the SWA had received corrected information from a State UC covered employer.

c. **Partially Unemployed IICFE Claimants.** The applicable provisions of the State UC law and the rules and regulations of the SWA to which Federal civilian or military service and wages, or both, are assigned, or to which such service and wages are transferred on a combined wage claim, will apply to those UCFE and UCX claimants who are partially unemployed. Earnings disregarded in computing State UC benefits for less than full-time work under a State law are also disregarded in computing UCFE/UCX benefits on a UCFE only claim, or joint claim involving such benefits. The provisions of the State law for rounding benefit payments to even dollars will also apply to UCFE benefit computations. If information on partial earnings for Federal civilian employment is necessary to process a partial claim involving UCFE benefits, SWA should use Form ES-934.

d. **Federal Civilian Service – One Employer.** A nonmonetary determination is not to be made with respect to any separation from a Federal agency during a period of continuous Federal

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civilian service--such as in the case of a transfer from one payroll office to another within an agency, or a separation from one Government position to accept another immediately--because civilian employment for the Federal Government is deemed to be for a single employer.

e. **Effect of Leave Without Pay.** Persons in leave-without-pay status in the Federal Government should be treated in the same manner as persons in non-pay status with an employer covered under State law. Federal law does not preclude the payment of benefits during leave without pay or other periods of non-pay status prior to official separation.

f. **Determination Based on Federal Findings being Appealed under Federal Personnel Procedure.** Federal agencies have established regular appeal procedures within their own agencies through which civilian employees may appeal personnel actions. These include grievance procedures established by Federal agency regulations or union-management agreements. Under certain circumstances, appeals to the Office of Personnel Management are also provided. When the SWA is informed by a claimant that he/she has a pending personnel action appeal or grievance relating to a separation from Federal civilian employment, the SWA will prepare and send a Form ES-934 requesting verification of that information and requesting that the SWA be notified promptly of the Federal agency's findings as to the reason for the claimant's separation, based on the final administrative or court decision in the matter.

**SWA should not postpone making a UCFE nonmonetary determination while awaiting:**

- (1) verification, or
- (2) the results of the claimant's personnel action appeal or grievance.

**Therefore, the SWA should take prompt action in those instances to make a UCFE nonmonetary determination either allowing or denying UCFE benefits in the same manner as the SWA proceeds in any other nonmonetary determination case, in which the claimant has filed a personnel action appeal or grievance.**

Federal agencies have been instructed to notify SWAs of their findings based on the final administrative or court decision in personnel action appeals or grievance relating to UCFE claimants. If appropriate and permissible under State law, any UCFE nonmonetary determination made under the procedure outlined in

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this section should be redetermined upon receipt of such findings subject to the right of appeal as provided by State law. In determining whether or not a redetermination or appeal is permissible under State law, the same consideration should be allowed by the SWA for UCFE claims as the SWA allows for State UC claims.

g. **State Agencies Which Deduct Employer-Contributed Pensions.** Federal retirement plans include the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) as well as the special Federal retirement plans such as the Civil Service Retirement System for Law Enforcement and Firefighter Personnel (CS-Spec), the Foreign Service Retirement and Disability System (FS), the Foreign Service Pension System (FSPS), the Federal Employees' Retirement System for National Guard Reserve Technicians (FERS-Reserve), and the Federal Employees' Retirement System for Air Traffic Controllers (FERS-ATC). State agencies which, in accordance with State law, deduct employer-contributed pensions from State unemployment benefits will also deduct Federal retirement payments and annuities from UCFE benefits. Even though the United States is not an "employer" under a State law, it must be treated as if it were such an employer for purposes of the UCFE program. Thus, Federal retirement payments and annuities should be treated the same as private employer's retirement and pension payments.

(1) **United States as a single employer.** For the purpose of deducting Federal retirement and annuity payments from UCFE benefits, all Federal civilian employment is considered to be employment for a single employer--the United States. Accordingly, if Federal retirement and annuity payments are deductible, they are deductible from UCFE and UCX benefits. Similarly, if U.S. military retirements are deductible, they are deductible from UCX and UCFE benefits. However, 3304(a)(15)(A) of the FUTA indicates that if the services performed did not affect either the eligibility for or the amount of the pension received, then the reduction is not required.

(2) **Contributions by the United States.** The Federal Government contribution and employee contribution varies according to the particular retirement plan.

h. **Obtaining Information about Federal Civil Service and FERS Annuity Payments.** If the SWA deems it necessary to determine or verify the amount of a Federal civil service annuity payment, the retiree filing an UC claim should be asked to present his/her notice of award or annuity, retirement or pension check. The notice of award sets forth the monthly retirement payment. The Federal civil service retiree's notice of award is

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Form RI 20-25, Civil Service Annuity Statement, which he/she receives after he/she has applied for such retirement annuity and the U.S. Office of Personnel Management has adjudicated the case.

SWAs should be aware that medical insurance payments may be deducted from the pension check, in this case, the annuity amount payable, which may be deductible in accordance with State law, would be more than the amount indicated on the pension check.

If a Federal retiree is not able to provide his/her copy of the annuity statement nor his/her retirement check, or if a SWA needs additional information, a letter should be directed to the:

U.S. Office of Personnel Management  
Retirement and Insurance Group  
Employees Service and Records Center  
Boyers, Pennsylvania 16017

The correspondence should include the individual's Federal civil service annuity claim number, or, if the number is not available, the retiree's separating Federal agency, his/her date of birth, social security number, and the date of separation. The SF-50 and the completed Form ES-931 and Form ES-931A are sources of such data.

#### **4. Introduction to The Form ES-933. Request for Information Regarding claims Filed under The Federal Employees' Compensation Act.**

Form ES-933 is used to obtain information from the Office of Workers' Compensation Programs (OWCP), Employment Standards Administration, U.S. DOL. That office is responsible for administering the Federal Employees' Compensation Act of September 7, 1916 (5 U.S.C. 8101 et. seq., as amended by P.L. 93-416, September 7, 1974) which is a workers' compensation law for Federal civilian employees.

Under some State UI laws, a claimant is disqualified for any week for which he/she is seeking or receiving workers' compensation under any State or Federal law, or his/her weekly amount of unemployment benefits otherwise payable is reduced by the amount of his/her workers' compensation award (as deductible income) for that week. In all States, receipt of Federal compensation for work injuries or classification by the OWCP as temporarily or permanently disabled (partially or totally) will raise able-and-available questions in regard to a UCFE claimant. Therefore, State agencies need such information to determine

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whether the claimant is entitled to unemployment benefits under State law.

If a Federal agency knows that a UCFE claimant has filed a request for, or is receiving, Federal Compensation for Work Injuries, it will so indicate in item 3d (Reason for Separation or Nonpay Status) of Form ES-931 or Form ES-931A. If such a notation has been made or if the UCFE claimant gives this information to the SWA, the SWA will send a Form ES-933 to the appropriate OWCP district office for completion.

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a. Form ES-933

LOCAL OFFICE:	DATE OF REQUEST:	DATE CLAIM FILED:	DATE A/C FILED:
<b>SECTION I. IDENTIFICATION DATA</b>			
NAME (LAST, FIRST, MIDDLE, MAIDEN (IF ANY))		FEDERAL EMPLOYING AGENCY (INCLUDE COMPLETE ADDRESS)	
SOCIAL SECURITY NUMBER ____/____/____		PLACE OF EMPLOYMENT (CITY, STATE OR COUNTRY)	
BIRTH DATE (MM/DD/YY)		POSITION TITLE	
<b>SECTION II. FEDERAL AGENCY REPLY</b>			
INSTRUCTIONS: FEDERAL AGENCY TO COMPLETE AT LEAST ITEM 1 OF SECTION II AND RETURN COPY TO STATE AGENCY AS SOON AS POSSIBLE; EXTENSIVE DELAY MAY CAUSE UNNECESSARY POSTPONEMENT OF UNEMPLOYMENT BENEFITS OR RESULT IN OVERPAYMENT OF SUCH BENEFITS.			
1. HAS THE ABOVE EMPLOYEE FILED A CLAIM FOR FEDERAL EMPLOYEES' COMPENSATION? <input type="checkbox"/> YES <input type="checkbox"/> NO			
2. IF CLAIM FILED,			
A. DATE CLAIM FILED (MM/DD/YY) ____/____/____		B. CLAIM IS/WAS: <input type="checkbox"/> APPROVED <input type="checkbox"/> REJECTED <input type="checkbox"/> PENDING	
NOTE: IF CLAIM IS "PENDING," PLEASE RETURN ONE COPY OF THIS FORM TO THE STATE AGENCY (ADDRESS ON REVERSE) COMPLETED THROUGH ABOVE ITEM. SUBSEQUENTLY, WHEN A DECISION HAS BEEN MADE, PLEASE FURNISH (ON SECOND COPY OF THIS FORM) APPROPRIATE, COMPLETE INFORMATION AND SEND IT TO THE STATE AGENCY.			
3. IF CLAIM WAS APPROVED			
A. RATE OF COMPENSATION \$ _____	B. RATE IN ITEM 3.A. IS FOR- ____ 1 WEEK ____ 2 WEEKS ____ 1 MONTH	C. DATE COMPENSATION BEGAN (MM/DD/YY) ____/____/____	D. ENDING DATE (IF KNOWN) (MM/DD/YY) ____/____/____
4. DESCRIBE THE DISABILITY FOR WHICH COMPENSATION WAS CLAIMED OR APPROVED IN TERMS OF NATURE, DEGREE, AND EXPECTED DURATION:			
5. LIST COMPENSATION PAID FOR THE PAST PERIODS WITH RESPECT TO WEEK-ENDING DATES SHOWN BELOW. (IF NONE SHOWN, INFORMATION IS NOT NEEDED BY THE STATE AGENCY.)			
WEEK ENDING _____	AMOUNT \$ _____	WEEK ENDING _____	AMOUNT \$ _____
WEEK ENDING _____	AMOUNT \$ _____	WEEK ENDING _____	AMOUNT \$ _____
REMARKS:			
<b>SECTION III. CERTIFICATION</b>			
I CERTIFY THAT I HAVE EXAMINED THIS REQUEST AND THAT THE ABOVE INFORMATION WAS OBTAINED FROM OFFICIAL RECORDS OF THE FEDERAL AGENCY (USE ADDRESS ON REVERSE)			
SIGNATURE OF OFFICIAL	TITLE	DATE	PHONE
NAME OF THIS FEDERAL AGENCY (IF DIFFERENT THAN SHOWN IN SECTION I.)		ADDRESS OF THIS OFFICE (IF DIFFERENT FROM THAT SHOWN ON REVERSE)	

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b. **Number of Copies and Distribution.** Sufficient copies of Form ES-933 should be prepared to provide the number necessary for SWA use and one copy for retention by the Federal agency. The original and at least two copies are to be submitted to the appropriate OWCP district office so that, when necessary, both "pending" and completed copies may be returned to the SWA (see note following Section II, item 3 on Form ES-933). The OWCP will return the completed form in a window envelope to the return SWA address shown on the reverse of Form ES-933. Indicia return envelopes should not be included in mailings to the OWCP district office because Federal agencies are required to use their own envelopes and return any others to the sender.

c. **Preparation.** The appropriate OWCP district office address (see item 8 of this Chapter) is to be entered on the reverse of the Form ES-933.

The SWA will complete Section I, Identification Data, in addition to entering local office information, date of request, date of new claim or additional claim as appropriate. If the prorated amount of the UCFE claimant's Federal workers' compensation payment for a week is required for any previous compensable weeks of unemployment, enter in Section II, item 5., the appropriate week-ending date.

d. **Privacy Act Release.** A Privacy Act release statement **must** be signed by the claimant and attached to the Form ES-933 before forwarding to the appropriate OWCP district office. This signed release is required because the information necessary in the completion of the Form ES-933 involves releasing a claimant's health and medical information.

e. **Completion by OWCP.** The appropriate OWCP district office will complete Section II, Federal Agency Reply, and Section III, Certification, and return the completed form to the SWA. Explanations of OWCP entries are given below only for those items in Section II which are not self-explanatory.

**Item 2.** If action on a Federal employee's claim for compensation for work injuries is pending, the OWCP will first notify the SWA by sending it a partially completed Form ES-933 marked "PENDING." If a supplementary report indicating the decision on the employee's compensation claim is not received in 90 days, a duplicate Form ES-933 request, annotated: "FOLLOW-UP REQUEST ON PENDING CASE" (underscored in red), should be sent.



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**Item 4.** The description of the claimant's disability will assist the SWA in determining whether the disability is temporary (partial or total) or permanent (partial or total).

**Item 5.** If a SWA inserts week-ending dates in this item, the OWCP will enter the actual amount of payments for those weeks.

**Item 6.** Under "Remarks," the OWCP will furnish general information about a claim: changes in compensation rates due to hospitalization, special treatment, etc.

f. **Additional Information Required by SWA.** If the information furnished by the OWCP is inadequate for determining the claimant's entitlement under the State UC law, the SWA may request further information by correspondence. The correspondence must include the claimant's name and social security number. That office will furnish the additional information or, if not permitted to do so, by the Federal Employees' Compensation Act or agreements with other Federal agencies, will indicate that further information is confidential and may not be given.

g. **District Office Addresses.** Listed are the OWCP district offices for the 50 States, Puerto Rico, the Virgin Islands, and the District of Columbia. The State where the Federal civilian employee's Official Duty Station is located will determine where Form ES-933 is sent.

### Addresses of the Office of Worker's Compensation

<u>District</u>	<u>State</u>	<u>Address</u>
No.1	Connecticut, Maine, Vermont, Massachusetts, Rhode Island or New Hampshire	One Congress Street 11 <sup>th</sup> Floor Boston, MA 02114
No. 2	New Jersey, New York, Puerto Rico, or Virgin Islands	201 Varick Street Room 750 New York, NY 10014

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No. 3	Delaware, Pennsylvania, or West Virginia	Gateway Building Room 15100 3535 Market Street Philadelphia, PA 19104
No. 6	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, or Tennessee	214 North Hogan Street Suite 1006 Jacksonville, FL 32202
No. 9	Indiana, Michigan, or Ohio	1240 East Ninth Street Room 851 Cleveland, OH 44199
No. 10	Illinois, Minnesota, or Wisconsin	230 South Dearborn Street 8 <sup>th</sup> Floor Chicago, IL 60604
No. 11	Iowa, Kansas, Missouri, or Nebraska	1910 Federal Office Building 911 Walnut Street Kansas City, MO 64106
No. 12	Colorado, Montana, North Dakota, South Dakota, Utah or Wyoming	1961 Stout Street Drawer 3558 Denver, CO 80294
No. 13	Arizona, California, Nevada, or Hawaii	71 Stevenson Street 2 <sup>nd</sup> Floor San Francisco, CA 94105
No. 14	Alaska, Idaho, Oregon, or Washington	1111 Third Avenue Suite 615 Seattle, WA 98101-3212

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No. 16	Oklahoma, New Mexico, Texas, Arkansas, or Louisiana	525 Griffin Street Room 100 Dallas, TX 75202
No. 25	District of Columbia, Maryland, or Virginia	1100 L Street, N.W. Room 9101 Washington, D.C. 20211
No. 50	Branch of Special Claims Washington D.C.	200 Constitution Ave, N.W. Washington, D.C. 20210  Mail: P.O. Box 37117 Washington, D.C. 20013

District No. 50 handles the claims of individuals injured overseas; individuals claiming exposure to AIDS, radiation, or Agent Orange; DOL employees; Peace Corps and Vista volunteers; Members of Congress and their staffs; White House officials and employees; Reserve Officer Training Corps (ROTC) Cadets; members of the Coast Guard Auxiliary and temporary members of the Coast Guard Reserve; individuals whose cases involve security considerations; and certain non-Federal claims.