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UCFE INSTRUCTIONS FOR STATE AGENCIES

Chapter VI - Reopened, Additional and Continued Claims Process

1. Introduction to Form ES-931A, Request for Separation Information of Additional Claim-UCFE.

This form is used by the SESA to request separation information or the reason for non-pay status when a claimant has previously established a benefit year under the UCFE program and is filing an additional claim after an intervening period of employment in a Federal agency.

When the claimant has a previous nonmonetary disqualification, the SESA should also request, in connection with this form, wages and/or weeks of employment pertaining to the period of intervening employment, to determine if the claimant has met the requalification requirements previously imposed.

The Form ES-931A is subject to the same response and control requirements as the Form ES-931.

The Federal agency should indicate if the claimant was laid off and will, or may be, recalled to work, the last day of active pay status and the reason for placement in non-pay status (e.g., "Laid off lack of work. Will be recalled when needed").

The same additional claim forms and procedure will be used for taking and processing additional and reopened UCFE claims as are used for State UC claims, except claims forms and related records will be identified as UCFE. If the most recent (or, if applicable, any intervening) civilian employment prior to the filing of an additional claim (UCFE, UCX, or joint claim involving UCFE and/or UCX benefits) was with a Federal agency, Form ES-931A will be sent to the appropriate Federal agency payroll office. In such cases, Form ES-931A will be used in lieu of the separation notice normally used with State UC additional claims.

NOTE: For intervening non-Federal employment in connection with an additional UCFE or joint claim involving UCFE and/or UCX benefits, the State agencies separation notice normally used with a State UC additional claim would be used in the same manner as if the claim were a State UC-only additional claim.

a. **Additional Interstate Claim.** Additional and reopened interstate UCFE claims are filed following the regular interstate procedures, except the use of the Form IB-3 does not apply. When taking an additional claim, the claimstaker must ensure that all intervening employment, including Federal civilian employment and active U.S. military service is shown on the Form IB-1 and a

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Separation Fact-finding Report, Form IB-11S, is completed for any potential separation issues.

b. **Reopened Interstate Claims.** Any time there is a break in the claims series that was not due to intervening employment, a reopened claim is taken and the reason for the failure to report is provided on an Interstate Fact-finding Report, Form IB-11. A reopened claim is also taken when the claimant has an existing benefit year and is filing under the interstate program for the first time or from a different agent State even though there has been no break in the claims series.

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2. Form ES-931A

ES-931A - REQUEST FOR SEPARATION INFORMATION FOR ADDITIONAL CLAIM-UCFE

(STATE AGENCY NAME)	LOCAL OFFICE:	DATE A/C CLAIM FILED:
	CONTACT:	DATE NEW CLAIM FILED:
	TELEPHONE:	DATE OF REQUEST:

SECTION I. IDENTIFICATION DATA		
1. NAME (LAST, FIRST, MIDDLE, MAIDEN (IF ANY))	2. SOCIAL SECURITY NUMBER	3. BIRTH DATE(MM/DD/YY)
4. POSITION TITLE	5. PLACE OF EMPLOYMENT (CITY, STATE OR COUNTRY)	6. SEPARATION DATE (MM/DD/YY)
7. IS FEDERAL AGENCY ADDRESS BASED ON SF-8? <input type="checkbox"/> YES <input type="checkbox"/> NO	8. CLAIMANT WAS: <input type="checkbox"/> REGULAR FULL-TIME EMPLOYEE <input type="checkbox"/> INTERMITTENT OR PART-TIME EMPLOYEE	

SECTION II. FEDERAL AGENCY REPLY	
INSTRUCTIONS: COMPLETE SECTION II AND RETURN WITHIN 4 WORKDAYS	
1. FEDERAL FINDINGS TO DETERMINE FEDERAL CIVILIAN SERVICE	
A. DID THIS PERSON PERFORM "FEDERAL CIVILIAN SERVICE" AS DEFINED FOR UCFE PURPOSES FOR YOUR AGENCY ON OR AFTER THE NEW CLAIM DATE SHOWN ABOVE? <input type="checkbox"/> YES <input type="checkbox"/> NO IF "NO", ANSWER QUESTIONS B thru F:	
B. UNDER WHAT LEGAL AUTHORITY WAS INDIVIDUAL HIRED? _____	
C. WHAT FUNDING SOURCE WAS USED FOR SALARY PAYMENTS? _____	
*D. WERE PAYROLL DEDUCTIONS MADE FOR FEDERAL AND STATE TAXES? <input type="checkbox"/> YES <input type="checkbox"/> NO	
*E. WAS EMPLOYEE ELIGIBLE FOR:	
(1). ANNUAL AND SICK LEAVE? <input type="checkbox"/> YES <input type="checkbox"/> NO (2). HEALTH AND LIFE INSURANCE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
(3). CIVIL SERVICE OR FERS RETIREMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	
*F. DID THE FEDERAL AGENCY PROVIDE DIRECTION AND CONTROL? <input type="checkbox"/> YES <input type="checkbox"/> NO	
*NOTE: IF "NO" TO D., E(1) THRU E(3) OR F EXPLAIN ON SEPARATE ATTACHMENT!	

2. IDENTIFICATION OF INCORRECT DATA SHOWN IN SECTION I. (E.G., SOCIAL SECURITY NUMBER OR BIRTH DATE).	
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3. TERMINAL ANNUAL LEAVE, SEPARATION AND SEVERANCE PAY INFORMATION	
A. DID THIS PERSON RECEIVE A LUMP-SUM PAYMENT(S) FOR TERMINAL ANNUAL LEAVE ON OR AFTER THE NEW CLAIM DATE SHOWN ABOVE? <input type="checkbox"/> YES <input type="checkbox"/> NO IF "YES", OR IF CURRENTLY ENTITLED TO SUCH A PAYMENT, RECORD PAYMENT INFORMATION BELOW FOR EACH PAYMENT OF ENTITLEMENT SINCE SUCH DATE.	
PAYMENT DATE: ___/___/___ DAYS OF LEAVE: ___ PERIOD FROM: TIME: ___ DATE: ___/___/___ TO: TIME: ___ DATE: ___/___/___	
PAYMENT AMOUNT \$ ___ HOURS OF LEAVE: ___	
B. DATE OF SEPARATION: ___/___/___	C. LAST DAY OF ACTIVE PAY STATUS: ___/___/___
D. REASON FOR SEPARATION OR NONPAY STATUS: _____	
E. DID THIS PERSON RECEIVE OR IS HE/SHE ENTITLED TO RECEIVE SEVERANCE PAY PROVIDED BY FEDERAL LAW OR AGENCY EMPLOYEE AGREEMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO IF "YES", COMPLETE THE FOLLOWING INFORMATION: TOTAL ENTITLEMENT: \$ _____	
WEEKLY ENTITLEMENT \$ _____ NUMBER OF WEEKS: _____ BEGINNING DATE: ___/___/___ ENDING DATE: ___/___/___	

SECTION III	
A. SIGNATURE OF OFFICIAL: _____ DATE: _____	B. NAME OF PARENT FEDERAL AGENCY, 3-DIGIT FEDERAL AGENCY CODE, AND ADDRESS (IF DIFFERENT FROM ADDRESS SHOWN BELOW).
PRINT NAME: _____	
TITLE: _____	
TELEPHONE: () _____	
(STATE AGENCY TO COMPLETE.)	
(FEDERAL AGENCY, 3 DIGIT FEDERAL AGENCY CODE AND ADDRESS.)	

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3. Purpose and Use.

Form ES-931A is to be used by the local office in connection with each UCFE-only, joint UCFE-UCX, UC-UCFE, or UC-UCFE-UCX additional claim when it is necessary for the SESA to obtain intervening Federal civilian employment separation information. The form is designed to obtain terminal annual leave and separation information from the Federal agency concerned, and will be used in lieu of the regular separation notice normally used in connection with State UC additional claims. The Form ES-931A should not be used in connection with a "new claim". The claimant's reason(s) for separation (i.e. Form ES-935) will not be sent to the Federal agency concerned in connection with an additional claim.

State agencies are also urged to use Forms ES-931A in connection with State UC-only additional claims when it is necessary for SESA to obtain intervening Federal civilian employment. The use of Form ES-931A in all cases should expedite the Federal agency reply.

4. Number of Copies and Distribution.

Sufficient copies of Form ES-931A will be prepared to provide the number necessary for SESA use and one copy for retention by the Federal agency. The original and at least one copy will be submitted by the SESA's local office to the appropriate Federal agency payroll office. The Federal agency will return the form either to the SESA's central office or local office, as appropriate. Indicia return envelopes should not be included in mailings to Federal agencies because they are required to use their own envelopes and to return any other to the sender.

5. Preparation.

Most of the items are the same as (or similar to) those on Form ES-931. Section I, Identification Data, items are to be completed by the SESA. For the "Date of Request" entry, enter the date the Form ES-931A (not Form ES-931) was completed.

A signed Privacy Act release statement is no longer required from a claimant to authorize the release of information in Section II. However, if a State law requires all claimants to sign a Privacy Act release statement, then a UCFE claimant would also be required to sign a Privacy Act release statement.

Federal agencies will complete Section II of the form. A SESA should include Section II, items 3.A. and 3.E., if pertinent to UCFE operations under the State UI law. If item 3.A. is omitted,

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the following statement should be printed on the form: "A. ITEM OMITTED. Terminal annual leave information is not needed by this State on additional claims."

6. Review by The SESA.

Prior to mailing, each Form ES-931A will be reviewed for completeness and accuracy of SESA entries, including a comparison with SESA entries contained on the corresponding Form ES-931, if any, prepared for any new UCFE claim for this claimant which had been taken previously. Comparison with the SESA regular additional claim form, requesting the beginning of a new benefit series, would also be appropriate. One copy of each Form ES-931A should be placed in a tickler file for necessary follow-up action.

7. Action by Federal Agency upon Receipt of Form ES-931A.

The Federal agency should return a completed Form ES-931A within 4 workdays of its receipt.

8. Action by SESA When Form ES-931A Is Returned by Federal Agency.

When the completed Form ES-931A is returned to the SESA, the separation information will be reviewed to determine the reason for separation. A nonmonetary determination will be issued if required. State law may require adjudication of any lump-sum payment for terminal annual leave, Federal civilian severance pay, or Federal civil service retirement pay (which may be indicated by completed item 3.A. and 3.E.). If any of the items on Form ES-931A are incomplete or incorrect, and such omission or error would affect the nonmonetary determination or otherwise affect the claim (including the claimant's benefit rights), a Form ES-934 will be sent to the Federal agency to request the necessary information.

9. SESA Action When Form ES-931A Is Not Returned.

The procedure for follow-up action regarding nonreceipt of a Form ES-931 will be followed, as appropriate, for nonreceipt of a Form ES-931A.

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10. Taking Continued UCFE Claims.

The same continued claim forms and procedure will be used for taking and processing continued UCFE claims. Claim forms and related records will be identified as UCFE.

a. Continued Interstate UCFE Claims. UCFE Interstate claimants follow the regular interstate by-pass procedures for filing continued claims. The Continued Interstate Claim, Form IB-2, will be issued to and used by UCFE claimants to the same extent that it is otherwise used for interstate claims.

11. UCFE Benefits - Payments for Weeks of Less Than Full-Time Employment.

The amount of UCFE benefits to be paid for a week of less-than full-time work is determined in accordance with the provisions of the State UC law, including those provisions relating to rounding weekly benefit payments.

Any earnings disregarded under the State law are disregarded in computing UCFE benefits. If a claimant has a joint claim: UC-UCFE, UC-UCX, UCFE-UCX, or UC-UCFE-UCX, the amount of unemployment benefits to be paid him/her with respect to a week of less than full-time work is computed on the basis of the joint weekly benefit amount.

12. Conducting UCFE Eligibility Reviews.

The same claim forms and procedures will be used for conducting eligibility review interviews for claimants filing UCFE, or joint claims as are provided for claimants filing State UC-only claims. Questionnaires and other related claim documents will be identified as UCFE.

If a claimant was in non-pay status (e.g., LWOP) as a civilian employee of a Federal agency when he/she filed a new or additional UCFE claim, and is later separated from Federal civilian employment, the Federal agency should have notified the SESA. However, if the Federal agency in such cases failed to notify the SESA as to the separation from Federal civilian employment, the reason for such separation, the subsequent receipt (or nonreceipt) of a lump-sum payment for terminal annual leave, other matters which would affect the claimant's benefit entitlement, or some combination of these factors--questioning such non-pay status claimants at the periodic interview is an effective method of obtaining such information. If necessary, a Form ES-934 request may be required; in some cases, redetermination of a prior nonmonetary determination will be

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needed even if a UCFE claimant had no break in his/her claim series since such determination was made.

State agencies, when pertinent, should also question UCFE claimants as to a change in the status of retirement payments (e.g., receipt, discontinuance, or change in rate, subsequent to filing new, additional, or reopened claims).

13. Benefit Rights and Eligibility Review Interviews for UCFE Interstate Claimants.

Each interstate UCFE claimant will be provided benefit rights information by the agent and liable States in the same manner and to the same extent that information is provided to all other interstate claimants. The liable State will send to each UCFE claimant the same benefit rights information package that is sent to all other interstate claimants. See ET Handbook No. 392, Section IV, for the responsibilities of the agent and liable States.

Regular interstate procedures for requesting and conducting eligibility review interviews apply to claims filed under the UCFE program. See ET Handbook No. 392, Section V.

14. UCFE - Federal Agency Notice of Refusal of an Offer of Reemployment.

The UCFE Instructions for Federal Agencies, published by the USDOL, requires the appropriate Federal agency personnel office to inform the central office of the applicable SESA when a former civilian employee refuses an offer of reemployment with that Federal agency. The personnel office will notify the SESA in the State in which the former employee's "duty station" was located, whether or not the job offered is located in that State. Such notification will be by letter, giving the following information: employee's name and SSN; date of the job offer; the nature, location, and salary of the job offered; the reason(s) for the refusal (or, if unknown, so indicated); and the return mail address.

Information obtained from Federal agencies pertaining to refusals of offers of reemployment should be used in the same manner as similar information obtained from any other employer. If additional or clarifying information is needed, the SESA will correspond with the Federal agency personnel office which originated the notification. The SESA will, in accordance with the provisions of the particular State's UC law, determine whether the refusal of an offer of reemployment will have any

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effect on the payment of UCFE or other unemployment benefits. If the SESA receiving the notice of refusal of an offer of reemployment has no record of a current benefit-year claim in that State, the SESA may destroy the notice within 30 days after receipt, assuming the SESA's central office receives no notification that a claim has been filed in one of its local offices during such period. In any case, the SESA receiving the notice of refusal is not required to notify any other State.

The SESA's nonmonetary determination form, if any is prepared, should be used to inform the claimant and the Federal agency's payroll office (not the Federal agency personnel office originating the notice of refusal) of the determination made in each instance. The payroll office address may be determined from retained claim records (including Forms ES-931 and ES-931A), the SESA's list of Federal agency payroll offices, or by questioning the claimant. State agencies should not supply Federal agencies with "Notices of Refusal of Suitable Work" or similar forms, as Federal agencies cannot be expected to stock the forms used by all of the State agencies with which they may have dealings. Furthermore, the Office of Management and Budget has responsibility for approving all UCFE forms used to obtain information from Federal agencies.

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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 SESA 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, SESA should make any necessary redetermination of entitlement permitted under the State law in the same manner as it would if the SESA had received corrected information from a State UC covered employer.

c. Partially Unemployed UCFE Claimants. The applicable provisions of the State UC law and the rules and regulations of the SESA 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, SESA 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 nonpay 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 SESA 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 SESA will prepare and send a Form ES-934 requesting verification of that information and requesting that the SESA 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.

SESA 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 SESA 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 SESA 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 SESAs 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 SESA for UCFE claims as the SESA 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 SESA 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.

SESAs 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 SESA 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 SESA, the SESA will send a Form ES-933 to the appropriate OWCP district office for completion.

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a. **Form ES-933**

(STATE AGENCY NAME)
REQUEST FOR INFORMATION REGARDING CLAIMS FILED
UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT

LOCAL OFFICE:	DATE OF REQUEST:	DATE CLAIM FILED:	DATE A/C FILED:		
SECTION I IDENTIFICATION DATA					
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			
SECTION II FEDERAL AGENCY REPLY					
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? ____ YES ____ NO					
2. IF CLAIM FILED, A. DATE CLAIM FILED (MM/DD/YY) ____/____/____ B. CLAIM IS/WAS: ____ APPROVED ____ REJECTED ____ 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
_____	\$ _____	_____	\$ _____	_____	\$ _____
REMARKS:					
SECTION III CERTIFICATION					
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 SESA 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 SESA (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 SESA 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 SESA 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 SESA. 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 SESA 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 SESA in determining whether the disability is temporary (partial or total) or permanent (partial or total).

Item 5. If a SESA 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 SESA. If the information furnished by the OWCP is inadequate for determining the claimant's entitlement under the State UC law, the SESA 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 11th 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, Ohio 44199 |
| No.10 | Illinois, Minnesota,
or
Wisconsin | 230 South Dearborn Street
8th 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
2nd 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, DC 20211
No.50	Branch of Special Claims Washington, DC	200 Constitution Avenue, 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.

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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 SESA 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 SESA 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, SESA 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 SESA 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 SESA in a UCFE case may be reopened, remanded for a redetermination (as applicable under State law) when the SESA 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 SESA'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 SESA, 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 SESA 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.

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

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Chapter IX - OVERPAYMENT

1. Prevention and Detection of UCFE Overpayment.

The SESA is responsible for taking necessary measures to ensure that UCFE benefits are paid only to those individuals who meet all necessary requirements. The SESA should employ the same methods used for State UC claims to prevent and detect possible violations of State and Federal law, specifically 18 U.S.C. 1919.

a. Postaudits. If a SESA's procedure provides for postaudits of State UC claims, the SESA will include UCFE claims in such postaudits to the same extent as it does for State UC claims.

b. Special Controls. The LCCC is responsible for detecting duplicate filing of UCFE claims "first claims," especially those filed in more than one State.

State agencies will establish and maintain controls to detect duplicate filing of UCFE claims on an intrastate basis (and, insofar as possible, interstate basis) and to prevent the concurrent filing of State UC and UCFE/UCX claims. Duplicate filing may often be prevented by good interviewing techniques.

2. Liability to Repay.

As provided in 5 U.S.C. 8507, if it is determined that a person received an overpayment of UCFE benefits as a result of fraud, he/she will be required to repay the amount of such overpayment in accordance with State law. Such determinations are subject to the same appeal and review that the State law provides for other types of determinations.

3. Recoupment.

An overpayment of UCFE benefits resulting from fraud may be deducted from any future UCFE benefits payable during the 2-year period following the date on which the fraud was determined. No deductions may be made after the 2-year period ends. Claimants are liable to repay any overpayment not recovered by offset.

UCFE benefits may be used to offset overpayments (fraudulent or nonfraudulent) in both Federal and State programs. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, Section 12401, amended Sections 303(a)(5) of the Social Security Act (SSA), and Sections 3304(a)(4), and 3306(f), FUTA, and added subsection (g) to Section 303, SSA. These amendments authorize States to enact legislation permitting

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the use of benefits payable under any State program to offset overpayments outstanding in any other State. Additionally, it allows reciprocal withholding of overpaid unemployment benefits regardless of the funding source, Federal or State. To offset cross-program between Federal and State funded benefit programs, the State must sign a reciprocal agreement with the Secretary of Labor. To offset cross-program on an interstate basis, both the requesting and recovering State must have signed a reciprocal agreement with the Secretary. The procedures for handling interstate overpayment recoveries, State or Federal, have been developed and can be found in Section IX of ET Handbook No. 392, Interstate Benefit Payment Control Procedures.

a. Waiver of Recovery. Any provision of State law authorizing waiver of recovery of nonfraud overpayment of UC, shall be applicable to UCFE. No waiver of recovery is permitted if the overpayment was due to fraud.

4. Administrative Disqualifications.

An individual who obtains UCFE benefits as a result of fraud is subject to the administrative disqualification provided in the State law. The SESA should take necessary action to determine whether or not a person will be disqualified. If State law or regulation requires due notice and a hearing before an administrative disqualification is imposed, this practice will be used for UCFE claimants. Facts which support a determination to impose an administrative disqualification may not be enough to support a criminal prosecution. Therefore, a failure to convict criminally would not bar an administrative disqualification on the same set of facts.

5. Criminal Offense.

Under the Federal Criminal Code (18 U.S.C. 1919), an individual who makes a false statement of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, to obtain or increase for himself/herself, or for any other person, a UCFE payment, may be fined not more than \$1,000 or imprisoned for not more than one year, or both. The statement or representation must have been false. The claimant must have known it was false. It must have been material to his/her claim, and it must have been made for the purpose of obtaining or increasing for himself/herself or someone else a payment under the Federal UCFE law (5 U.S.C. 8507). If the case is failure to disclose, the failure must have been of a material fact and the person who failed to disclose such fact knew that the failure would obtain or increase a benefit for himself/herself or someone else.

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a. **Preparation of Case.** When a SESA has enough facts for a prima facie case under the Federal Criminal Code (18 U.S.C. 1919), or 5 U.S.C. 8507, it will develop the factual information, such as lists of witnesses and an abstract of the evidence each will present, copies of applications, certificates, statements or affidavits in which false allegations of material facts are made, copies of payrolls, samples of signatures, and any other evidence. The SESA is not to confront a claimant with the evidence collected or try to obtain a confession. The amount of overpayment, if any, and copies of checks, warrants, or cash receipts received by the person, will be shown.

b. **Decision on Appropriate Action.** Consistent with the ETA/OIG Memorandum of Understanding on this subject, and based on the material compiled, the SESA will decide whether criminal action should be undertaken in Federal courts or in State courts. If prosecution in the Federal courts is appropriate, the matter will be referred to the appropriate office of the Regional Inspector General for Investigations (RIGI/CSSI), DOL (DOL).

If the case does not meet the prescribed criteria and prosecution in the Federal courts is not appropriate, or if the U.S. Attorney declines to prosecute the case, appropriate prosecutive action should be sought by the SESA in State/local courts in accordance with State law and practice.

6. Arrangements with the Department of Justice (DOJ) and the Office of the Inspector General (DOL) (OIG).

a. **Referral to OIG.** The DOJ and the Federal Bureau of Investigation (FBI) have agreed with the DOL that the authority to investigate criminal fraud matters arising from and pertaining to UC programs shall be vested in the OIG. See Memorandum of Understanding (MOU), FBI and OIG (October 14, 1983); DOJ letter (February 15, 1984) from Stephen S. Trott (Assistant Attorney General-Criminal Division) to Francis X. Lilly (Deputy Solicitor of Labor).

Fraudulent claims for UCFE will be referred to the appropriate RIGI or the Chief of the Security and Special Investigations Branch (CSSI) if they meet any one or more of the following three criteria:

- (1) If the established fraudulent overpayment exceeds \$1,000; or
- (2) If the established fraudulent overpayment (regardless of amount) involves the use of a false governmental identification document, such as an SF-50

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or Form ES-931, to claim entitlement for UCFE benefits (violation of 18 U.S.C. 1028); or

(3) If there are other factors concerning the fraudulent overpayment which, in the judgement of the SESA or ETA officials, indicate a need for OIG investigation (i.e., offenses of an extremely flagrant nature or offenses involving claimants who leave the State).

NOTE: To meet the criteria for referral to the OIG in Section 6.a.(1), above, the payments for the weeks in which the fraud actually occurred must exceed \$1,000. For example, if a claimant knowingly failed to report wages for 3 weeks, which resulted in his/her fraudulently obtaining \$300 in UCFE benefits, such case would not be referred to the OIG, even if the total overpayment established by the SESA amounted to \$1,800 because of the imposition of an administrative penalty which increases the amount of actual overpayment by \$1,500. Generally, such penalty payments arise from provisions of State law which provide for retroactive determinations based on the dates(s) that fraud was committed rather than the date the overpayment was discovered.

When a SESA refers a case to the OIG, it will include in the transmittal correspondence the reason for the referral as taken from the above criteria. For example, if a case involves the use of false government identification documents (Section 6.a.(2)), the correspondence should indicate the specific document used (i.e., SF-50, ES-931, etc.). If the case involves "other factors" (Section 6.a.(3)), show the specific reason in the transmittal (i.e., the offense is considered as exceptionally flagrant and the penalties of State law are not deemed sufficient or the claimant is no longer residing in the State).

Referral of these claimant fraud cases will be made by a narrative summary from the SESA to the appropriate RIGI/CSSI on a memorandum, State report form, or DOL Incident Report, Form DL 1-156 (a copy of which will also be sent to the appropriate ETA Regional Administrator). Regardless of the type of form used, the narrative summary must set forth a general description of the claimant (i.e., name, SSN, address, race, sex, date of birth, physical description, etc.), the type of referral (from the criteria in Section 6.a. above), the type of UC program involved as well as the monetary loss (i.e., UCFE -\$1,500), and any relevant facts already developed by the SESA.

The following types of information should also be attached to the

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narrative summary that is sent to the RIGI/CSSI: copies of application(s)/claim(s) for benefits; copies of the claimant's statement/affidavit; copies of the employer reports/payroll information, copies of checks or warrants, SESA determination notices and appeal decisions, if applicable; samples of signatures and any other evidence the SESA has in its possession that has a bearing on the facts in the case.

Within 5 days, the RIGI/CSSI will acknowledge, to the SESA (with a copy to the ETA Regional Administrator), in writing, its acceptance of the case for further investigation prior to referral to the appropriate U.S. Attorney for prosecutive action. Those cases referred to but not accepted by the OIG will be returned to the SESA. The RIGI/CSSI will also notify the ETA Regional Administrator of such cases where no action will be taken. Upon return of these cases, the SESA should consider appropriate prosecutive action in State/local courts.

In those cases where the referral has been accepted, the OIG will conduct such investigations as are necessary in preparing the case for prosecution. The OIG will keep the SESA advised on a confidential basis on the status of the case. On fraud cases referred to the OIG for investigation, the SESA will coordinate all claimant contacts with the RIGI/CSSI to ensure that these actions will not interfere with the pending criminal investigation and prosecution. After a case is closed, the RIGI/CSSI will notify the SESA on the outcome of the case with a copy to the ETA Regional Administrator. If the referral criteria contained in Section 6.a. above should be changed within a jurisdiction (State/region) due to the workload, the known attitude of prosecutors, or the adequacy of SESA obtained prosecutions, the Assistant Inspector General for Investigations and the Administrator, Office of Program Fiscal Integrity, ETA, will authorize revisions to the referral criteria. Generally, the OIG policy will be to avoid unnecessary referral cases which will not be investigated. The appropriate ETA Regional Administrator will be notified, in writing, of referral criteria revisions by the Director, Unemployment Insurance Service, ETA, through the Office of Regional Management.

7. Records of Cases Referred to the OIG.

A record of each case referred to the OIG will be maintained by the SESA, showing the dates and the documents referred. This record may be abbreviated if duplicate copies of all documents referred are retained by SESA. Final disposition, such as fine or imprisonment, dismissal, or nonprosecution, is to be recorded. The amount of UCFE, or UCFE-UCX overpayment established to the claimant's account and subsequent recoveries, as well as

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collection efforts (if appropriate), are to be posted to the claimant's record by the SESA.

8. Prosecution in State Courts.

a. **Cases That Do Not Meet the Criteria for Referral to the OIG.** Any case that does not meet such criteria will be referred for prosecution in a State court if it meets the criteria for prosecution of cases of fraudulent claiming of State UC benefits. Upon request of a SESA, the RIGI/CSSI will assist SESA investigative units in other claimant fraud inquiries on a case-by-case basis. The nature of the assistance will depend on local circumstances and will be decided by RIGI/CSSI and the SESA with the knowledge of the ETA Regional Administrator.

b. **Prosecution Declined by U.S. Attorney.** If the U.S. Attorney declines to prosecute a case under the referral procedure outlined above, the SESA should refer the case for prosecution in a State court if it meets the criteria for prosecution of cases of fraudulent claiming of State UC benefits.

9. Establishment of Overpayment.

Whether prosecution is by Federal or State authorities, the SESA will establish an overpayment according to State law.

10. UCFE Overpayment Not Involving Fraud.

When an overpayment of UCFE benefits involves no fraud, a SESA will determine, under its State law, whether:

- a. Recovery of the overpayment will be waived;
- b. The claimant will receive any future UCFE benefits if the overpayment has not been repaid; or
- c. The claimant will be permitted to offset any future UCFE benefits payable under Federal law.

This matter is covered in the Federal UCFE regulations (20 CFR 609.11(c)). The above procedure allows a SESA, if permitted under its State law, to pay a UCFE claimant part of his/her weekly benefit amount, offsetting the remainder against a determined amount in order to reduce the balance of the outstanding overpayment. For example, if the claimant's weekly benefit amount equals \$100 and his/her nonfraudulent overpayment is \$180, he/she could be paid \$50 for each week of total unemployment, the \$50 reducing the overpayment accordingly (i.e., from \$180 to \$130

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after the first week), if this procedure is authorized under the State law.

11. Collection of UCFE Overpayment - Fraudulent and Nonfraudulent.

a. SESA must observe the following minimum requirements in collecting an overpayment of UCFE benefits:

(1) In an overpayment case involving fraud, if an agreement for repayment has been obtained by the U.S. Attorney or a State attorney, or in a case of court ordered repayment, and the debtor fails to repay as agreed or ordered, the SESA will notify the U.S. Attorney, the State attorney, or the court, as appropriate.

(2) Except as provided in this Chapter, the SESA should seek to recover all overpayment through a comprehensive, vigorous, and uniformly applied collection program that is at least equal to its collection under the State law. The program for collecting a UCFE overpayment must include all debt collection procedures reasonably available to the SESA, such as (but not limited to):

(a) Timely and aggressive demands for repayment, embodying adequate description of the overpayment;

(b) Efforts to locate the debtor by communicating with past employers; by examining wage records, when available; by personal visit to debtor's last known address; and by inquiry among his/her former associates and relatives;

(c) Collections by offset when possible in accordance with this Chapter;

(i) By civil suit, as authorized by State law; and

(ii) When the debtor is adjudicated bankrupt, the filing of a proof of claim with the appropriate administrative authority or court.

(d) The SESA will establish and observe realistic points of diminishing returns beyond which further collection efforts by the SESA are not justified or beyond which collection efforts may be limited. In establishing points of diminishing returns, the SESA will consider estimated or actual recovery rates in relation to:

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- (i) Costs of different types of action;
- (ii) Size of the debt; and
- (iii) the possibility of collection through the agency's efforts and by other means.

12. Write-off of UCFE Overpayment--Fraudulent and Nonfraudulent.

After following required collection procedures and having reached a point of diminishing returns, a SESA may determine that a debt is uncollectible and remove the amount of the uncollectible overpayment from its accounts:

- a. When a debtor has no resources and is arrested for a felony or is permanently incapacitated for work, physically or mentally;
- b. When a debtor dies and there is positive evidence showing the debtor left no estate;
- c. When a debtor is adjudged bankrupt or was discharged in bankruptcy, and the amount due as listed in the schedule of debts or proof of claim was duly filed in the bankruptcy proceedings, regardless of the amount;
- d. When an overpayment amounts to \$25 or less and was on the SESA's records for at least 1 year; or
- e. When an overpayment amounts to more than \$25 and has been on SESA's records for at least 3 years.

Removal of an overpayment from the accounting records does not cancel the debt, which remains collectible until paid or otherwise discharged. Although no further active collection efforts by the SESA are required, the SESA should keep an administrative record (including a "stop" order or "flag") during the next 3-year period to provide for possible collection through offset (limited to the 2 year period following the date that the fraud was determined) or by other methods until appropriate disposition of the records according to Sections 9190-9194, Part V of the ES Manual.

13. Recovered UCFE Funds.

Any amount recovered by a SESA in a UCFE overpayment will be deposited in the account from which payment was made, and reported on the UCFE transactions report.

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14. Interest on UCFE Overpayment.

The collection of interest on UCFE overpayment balances is not only permissible, but required by statute if the State imposes an interest charge on overpayment balances under the regular State program. In addition, the interest collected cannot be retained by the SESA but must be paid into the fund from which the benefits were paid together with the principal recovered.

However, benefit offset can only be used to collect the overpayment principal. It cannot be used to reduce to interest liability of the claimant.

Federal law (5 U.S.C. 8502(b)) requires equal treatment of claimants under the UCFE program. Under the equal treatment rule, if a SESA imposes on claimants an interest charge on overpayment balances under the regular State unemployment compensation program, the charge must be imposed on overpayment balances due under the UCFE program (20 CFR 609.11(f)). Federal law requires no minimum or "Standard" interest rate. Therefore, whatever interest rate applies to regular State unemployment insurance, also applies to UCFE program funds.

Under the applicable Federal statutes and regulations, a State is not authorized to retain the interest collected on a UCFE program overpayment. In the UCFE program, an overpayment that results from a knowing misrepresentation or failure to disclose material facts, must be repaid. 5 U.S.C. Section 8507(b)(1) provides that "(a)n amount repaid" under subsection (a) shall be "deposited in the fund from which payment was made, if the repayment was to a SESA." (Emphasis added). See, also 20 CFR 609.11(j)(1). The term "an amount repaid" includes both the overpayment principal recovered and any interest charge assessed. Therefore, both the principal and the interest charge must be deposited in the account from which the payment was made.

Retention of interest by the State as it applies to UCFE overpayment is also invalid because it would amount to an unauthorized appropriation of Federal property. Although authority for assessment of an interest charge is vested in State law, the imposition of the charge does not entitle the State to assume ownership of the interest. Interest on interpleaded or deposited private property funds generally follows the principal and is a protected property right that may not be appropriated by the State without just compensation. Therefore, if the State retains interest on Federal funds, it essentially appropriates Federal property.

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15. Records of UCFE Overpayment--Fraudulent and Nonfraudulent.

Accounting records, specifically identified by program will be kept for UCFE overpayments. Among other things, records of UCFE overpayments will contain the reason for overpayment and will show, separately, overpayments resulting from fraud. Records of UCFE overpayments will show, in each case, the amount of the overpayment, the action taken by the SESA to collect the overpayment, the results of the SESA's collection activities, the dates and amounts of repayment or amount recovered by offset, and the current overpayment balance, if any.

The basis for the SESA's determination that a debt is uncollectible will be included in the overpayment files if the amount of the overpayment has been removed from the accounts. The records will be transferred to SESA accountability for disposal, under provisions of State law, 3 years after the date of write-off.