

QUESTIONS AND ANSWERS FOR CLARIFICATION OF P. L. 102 - 318

Special Filing Procedures

1. Question. Some States have in place special filing procedures that allow the employer(s) to transmit the employee's claim for a week(s) of unemployment when such an employee is on a short-term layoff with a definite date to return to work or partially employed. States processing procedures for such claims provide for automatic filing of initial claim and/or posting and payment of such claims submitted by the employer. In view of the requirements Sections 102(a) and (b)(2)(B) of P.L. 102-318, can these procedures be used while the EUC program is in effect?

Answer. Yes. However, States must ensure that each such claimant is informed of his/her right to not establish a new benefit year for regular benefits or defer rights to regular benefits in accordance with the requirements of Section 102 of P.L. 102-318. In the absence of such a claimant receiving an in-person explanation of the available claims filing options, the agency must provide a written notice which fully explains the specific filing options which requires written response from the claimant of his/her election.

Election of EUC vs Regular Claim

1. Question. Many of the provisions of P.L. 102-318 were effective upon enactment and immediately affected claimants' benefit rights. State agencies were unable to inform claimants of their filing options provided by Sections 102(a) and (b) of P.L. 102-318 due to the timing of the instructions received. In a case where the claimant, with a prior benefit year on which EUC is payable, established a new benefit year for regular benefit after July 3 because he/she was not offered an election, now elects to file for EUC, must the current benefit year be invalidated in order for the claimant to meet the eligibility criteria set forth in Section 102(a), or is it allowable for the claimant to defer rights to regular benefits under 102(b) in such cases?

Answer. A claimant with a new benefit year effective on or after July 3, 1992 is not an "exhaustee" for purposes of EUC as provided in Section 102(a) of P.L. 102-318. The provisions of Section 102(b)(2)(B) which provide waiver of regular benefit rights apply to benefit years established prior to July 3, 1992. Therefore, in the cases described, the new benefit year must be invalidated in order for the claimant to meet the eligibility criteria set forth in Section 102(a).

2. Question. Do the provisions of Section 101(f) of the EUC Act, as amended, and 102(b)(2)(B) of P.L. 102-318 all claimants, with a prior "applicable benefit year" for EUC purposes, an option to postpone the filing of an initial claim or a continued claim for regular benefits for weeks of unemployment beginning after July 3?

Answer. Yes. Section 101(f) of the EUC Act, as amended, allows all claimants that do not file a claim to establish a new benefit year to elect to file an EUC claim based on an applicable prior benefit year. Section 102(b)(2)(B) of P.L. 102-318 provides the same option to all claimants that were not previously eligible for EUC because of regular benefit entitlement. Therefore, all claimants with an existing benefit year must be provided the option as they were previously not eligible to file for EUC as they were not "exhaustees" for EUC purposes.

3. Question. If a claimant has more than one benefit year ending during the reachback period and thereafter, and is currently in regular benefit status or is eligible to file a new claim to establish a benefit year for regular benefits, what options are available to the claimant?

Answer. The claimant may forego filing the new claim to file for EUC based on the prior benefit year that in the absence of regular benefit eligibility meets the definition of "applicable benefit year" as defined at 20 CFR 615.2(c)(2) or he/she may file for regular benefits. Sections 102(a) and 102(b)(2)(B) of P.L. 102-318, while, in effect, changing the definition of an "exhaustee" for EUC purposes, did not change the definition of "applicable benefit year." Therefore, a claimant has no option to exercise with respect to the applicable benefit year.

4. Question. A claimant filed a claim in March 1990, established a benefit year, and immediately returned to work until the current layoff which occurred after July 3, 1992. Does Section 102(a) of P.L. 102-318 provide this claimant with an option to file for EUC based on the benefit year established by the March 1990 claim?

Answer. Yes. Any claimant with a benefit year ending after February 28, 1991 has potential EUC entitlement. Therefore, each claimant filing a new, additional, or reopened claim must be questioned about prior claims, including claims under other States' laws, to determine if potential EUC entitlement exists.

5. Question. If a claimant, who has become an exhaustee since July 3, 1992, and has new rights to regular benefits under any State or Federal law, elects to file for EUC based on a prior benefit year, or if a claimant, who is currently in regular benefit status, elects to defer rights to regular benefits to receive EUC based on a prior benefit year, is the State required to take any action with subsequent base period changes to further advise the claimant of filing options or changes to potential regular entitlement?

Answer. No. The explanation of the options available to the claimant at the time of the initial election should be thorough with respect to all options available at that time. However, during the initial explanation, the claimant should be cautioned that rights to regular benefits may be affected by future base period changes.

6. Question. Can a claimant who elects to establish a new benefit year effective after July 3 subsequently change his/her election, defer rights

to regular benefits, and receive EUC based on a prior benefit year?

Answer. No. This is a one-time option. If the claimant elects to file a claim to establish a new benefit year for regular benefits, the claimant is no longer an "exhaustee" for EUC purposes.

7. Question. If the claimant with regular benefit entitlement elects to receive EUC, must such claimant exhaust EUC before he/she has the right to elect to file for regular UI?

Answer. No. An EUC claimant with regular UI entitlement may withdraw from EUC, at any time, in order to receive regular UI. Moreover, once the claimant elects to terminate an EUC claim based on a prior benefit year, no further rights to EUC exists with respect to such benefit year.

8. Question. Can a claimant be permitted to retroactively withdraw his/her "election" to claim either EUC or regular compensation for "good cause" if the "election" was based on erroneous information supplied by the State agency?

Answer. Yes. A State's determination that provides a claimant with an opportunity to retroactively exercise his/her filing options based on complete and accurate information is not considered by this Department to be inconsistent with the EUC Act and the Department's operating instructions.

If the State determines that a claimant exercised his/her option based on erroneous or inadequate information provided by the State agency, including agent States for interstate claimants, the State may make an "equity and good cause" determination to allow the claimant to retroactively substitute a regular claim for an EUC claim or vice versa. If the net result of a substitution, including payment substitution from one program to the other, is an EUC overpayment, the EUC overpayment is not subject to the prohibition in Section 102(b)(2)(A) of P.L. 102-318 and should be handled in accordance with Section 105 of the EUC Act, as amended. Any resulting regular benefit overpayment is handled in accordance with the State law provision that is applicable to claims for regular benefits.

9. Question. If a claimant has filed an EUC claim based on a current benefit year, does the claimant have the option to defer his/her rights to EUC based on the current benefit year to file an EUC claim based on a prior claim with a benefit year ending after February 28, 1991?

Answer. No. Section 102(b)(2)(B) of P.L. 102-318 only allows an individual to defer his/her rights to benefits for weeks of unemployment beginning on an after July 3, 1992. It does not provide for the deferment of EUC benefits based on a current claim in order to receive EUC based on a previous claim.

10. Question. A claimant has two benefit years ending after February 28, 1991 and was denied EUC based on the first benefit year because of entitlement to a second benefit year. The claimant has now exhausted EUC based on the second benefit year and has sufficient employment and wages

on which to base a new claim for regular benefits. Does Section 102(b)(2)(B) of P.L. 102-318 provide this claimant with the option to not file a claim for regular benefits in order to file for EUC benefits based on the first benefit year?

Answer. No. Section 102(b)(2)(B) of P.L. 102-318 does not change the definition of the "applicable benefit year" for EUC purposes. In the case described, the "applicable benefit year" for EUC purposes is the claim most recently exhausted. Therefore, since the claimant has already exhausted all EUC based on that claim, the claimant has no EUC eligibility.

11. Question. Does a claimant have the right to not file a claim to establish a new benefit year for regular benefits in order to file for EUC, based on a prior benefit year, in order to avoid serving a waiting period on the new benefit year?

Answer. Yes. For weeks of unemployment beginning on and after July 3, 1992, Section 102(b)(2)(B) of P.L. 102-318 changed the definition of an "exhaustee" for EUC purposes to include individuals with sufficient employment and wages to establish a new claim for regular benefits if the individual does not file a claim to establish the subsequent benefit year which includes the week of unemployment for which EUC is claimed. The individual's claim choice may include consideration of serving a waiting week among many other reasons.

12. Question. If a claimant exhausted regular benefits before or after July 3, 1992, and has been determined monetarily ineligible for a new benefit year, does the claimant have a right to resume or file an **EUC claim** based on the prior benefit year?

Answer. Yes. Such claimant is an "exhaustee" for EUC purposes. P.L. 102-318 did not affect this claimant's EUC eligibility status.

13. Question. If a claimant elects to file a new claim to establish a benefit year for regular benefit for weeks of unemployment beginning after July 3, 1992, does the claimant have the option of deferring regular benefits on that claim at a later date to file for EUC based on the prior benefit year?

Answer. No. Section 102(a) of P.L. 102-318 is specific in that the individual in such cases may exercise an option only if the individual has not elected to file a claim to establish a new benefit year which includes a week of unemployment beginning after July 3. Therefore, this is a one-time option which is offered prior to the filing of the new claim which establishes **a benefit year**. The claimant has no option to defer regular benefits based on such claim once it is established.

14. Question. If a claimant elects to continue filing for regular benefits for weeks of unemployment beginning on or after July 3, 1992, does the claimant have the option of deferring regular benefits on that claim at a later date to file for EUC based the prior benefit year?

Answer. No. Section 102(b)(2)(B) of P.L. 102-318 does not provide unlimited options. A claimant with a current benefit year is considered an "exhaustee" for EUC purposes if he/she elects to defer regular benefits to file for EUC based on a prior benefit year. If the claimant elects to file for regular benefits, even for a single week, no additional elections are available.

15. Question. If a claimant elects to file for EUC based on a prior benefit year instead of establishing a new benefit year for regular benefits, does this election cause a base period "wages freeze" to prevent the claimant from losing future regular entitlement with a base period change?

Answer. No. The potential consequences of the claimant's choice should be explained to the claimant at the time the option is offered in order for the claimant to make an informed choice.

16. Question. Section 102 of P.L. 102-318 allows a claimant to defer rights to regular benefits for weeks of unemployment beginning on and after July 3, 1992 and prohibits the recovery of EUC overpayments that resulted from the payment of EUC in lieu of regular benefits prior to July 3. Therefore, if a State discovers after July 3 that an EUC claimant would have had regular benefit entitlement if a benefit year had been established prior to July 3 and EUC has been paid for weeks of unemployment that began prior to July 3 that would have been paid on such regular benefit claim, what actions should be taken?

Answer. A regular claim should be established retroactively to the appropriate effective date. To prevent duplicate payment for the same weeks, the EUC payments should be transferred to the regular claim for the weeks previously paid. The recovery of any resulting overpayment for weeks ending prior to July 4, after the payment transfer, should be handled in accordance with the requirements of Section 102(b)(2)(A) of P.L. 102-318 and operating procedures issued in GAL 4-94, Change 4.

Effective for weeks of unemployment beginning on and after July 3, 1992, the claimant should be offered the option of deferring regular benefits to revert to EUC on the prior benefit year. However, if the claimant has exhausted all rights to regular benefits on the current benefit year, the claimant has no right to file for EUC based on the prior benefit year. In such case, the "applicable benefit year" for EUC purposes is the most recent benefit year as there are no regular benefit rights available for weeks of unemployment beginning after July 3 to defer.

17. Question. A claimant has elected not to file a claim to establish a new benefit year for regular benefits thereby deferring regular benefit rights in order to receive EUC based on a prior benefit year. The claimant is subsequently disqualified from the receipt of EUC for failure to meet the "systematic and sustained" work search requirement. Does the claimant have an option to elect to file for regular benefits for the week of the disqualification and thereafter or only for weeks beginning after the week of disqualification?

Answer. A claimant may exercise his/her option to file a claim for regular benefits at any time. The effective date of the regular claim should be determined in accordance with State law requirements.

18. Question. Some claimants are in current EUC benefit status based on a subsequent benefit year to a benefit year which ended in the reachback period. Without regard to whether or not the claimant previously filed for EUC under the reachback provision, does Section 104 of P.L. 102-318 provide the claimant with the option of collecting any remaining EUC entitlement, based on the subsequent benefit year, at a WBA equal to that of the prior benefit year?

Answer. Generally, No. There are no provisions for the unilateral payment of EUC benefits at a WBA in excess of the WBA of the regular claim upon which the EUC entitlement is based except for Persian Gulf Reservists.

If the claimant is a reservist who was called to active duty as a result of the Persian Gulf crisis, in a reserve status, between August 2, 1990 and March 1, 1991 and was receiving benefits under any State or Federal law for the week of the call-up, served at least 90 days and the UCX wages were used in the determination of the claim upon which the EUC claim is **based, such** claimant **must be** paid EUC based on the "applicable benefit year" at the WBA of the benefit year in effect for the week of the call-up to active duty. Therefore, for Persian Gulf Reservists, the WBA of a current EUC claim, based on the most recent benefit year, **must** be increased to the amount payable on the prior benefit year if all of the conditions stated above are met. However, the WBA is determined by the entitlement of the benefit year upon which the EUC claim is based.

19. Question. A claimant, with an existing benefit year in State A, has been denied benefits for a disqualifying separation until he/she has satisfied State A's requalifying requirement. Does such a claimant have regular benefit rights to postpone under the provisions of Section 102-(b)(2)(B) of P.L. 102-318 in order to **file an EUC claim** based on a prior benefit year under State B's law?

Answer. No. In the case described, the individual's rights to regular benefits have been denied. Therefore, there are no rights to regular benefits to defer. If the claimant satisfies the requalification requirement during the benefit year, Section 102(b)(2)(B) of P.L. 102-318 will apply.

20. Question. Does a claimant in regular benefit status have the option of deferring rights to regular benefits for any weeks prior to a week of unemployment beginning on or after July 3, 1992?

Answer. No. Section 102(b)(2)(B) of P.L. 102-318 only applies to weeks of unemployment beginning on and after July 3, 1992.

21. Question. A claimant's benefit year ended prior to July 3, 1992 and the claimant was not eligible for EUC because of regular benefit

entitlement on a subsequent benefit year. As of July 3, the claimant has a right to defer regular benefit rights and file for EUC based on the prior benefit year. Is EUC entitlement calculated on the basis of the greater level of benefits that was payable in the State at the time the "applicable benefit year" ended or the level in effect at the time of the effective date of the EUC claim?

Answer. The claimant's EUC entitlement is determined in accordance with the provisions of Section 102(b)(2) of EUC Act, as amended, in effect for the State as of the applicable benefit year ending date in order to satisfy the requirement that the claimant is entitled in the same manner as if he/she had not been entitled to regular benefits.

22. Question. Section 102(b)(2)(B) of P.L. 102-318 allows claimants to defer rights to regular benefits to file for EUC based on a prior benefit year. Does this mean that a claimant who elects to file for EUC also postpones, by an equal number of weeks, the ending of the benefit year on the regular claim?

Answer. No. Section 102(b)(2)(B) has no effect on the benefit year ending date of the regular claim.

23. Question. After an explanation of the filing options, a claimant elects to file a new claim to establish a benefit year for regular benefit entitlement. A subsequent redetermination, which was caused by an error in wage record file, decreases the regular monetary award and the claimant wants to elect to file for EUC based on a prior claim. Must the claimant be allowed to change his/her election?

Answer. Generally, yes. If the explanation of the options available was based on incorrect information, the claimant must be provided correct information and offered a retroactive election.

24. Question. A claimant with a prior benefit year elects to file for EUC instead of a new claim. A disqualifying separation occurred prior to the election and the claimant is denied EUC. Since EUC disqualifications do not apply to regular claims, must the separation issue be readjudicated if the claimant files for regular benefits subsequent to the EUC disqualification?

Answer. Yes. A claimant's election to file for EUC and associated adjudications have no effect on the adjudication of issues associated with the filing of a regular claim. When a claimant files a claim for regular benefits, the State must determine the claimant's rights to regular benefits in accordance with the appropriate State law provisions.

25. Question. Section 102(a) of P.L. 102-318 allows the claimant to elect to file an EUC claim based on a prior benefit year in lieu of establishing a new benefit year for regular benefits. How precise does the agency have to be in providing potential benefit entitlement and eligibility information pertaining to the unfired regular claim?

Answer. The agency is required to provide the claimant with as accurate and thorough an explanation of the claimant's options as is available to the agency at the time. This explanation may be based on information from the claimant and/or the State's wage and benefit files. However, if it is later determined that the options explained were based on erroneous information, the State should again explain the options and offer the claimant a retroactive election. With respect to eligibility issues, potentially disqualifying issues with respect to regular claims are disqualifying with respect to a claim for EUC. However, the differences in EUC and regular requalifying requirements should be explained.

Note: There is no requirement for the State agency to process an erroneous initial claim for regular or EUC benefits in order to obtain precise information on which to base its explanation of the options available. Should a State elect such a procedure, no initial claims workload count is reportable for such claims.

25. Question. Instructions issued in GAL 4-94, Change 4, Page 27 state that a State agency may not issue a redetermination once an issue has been appealed. Does this mean that the State cannot redetermine an issue when the case has been remanded by the appeals section for review before hearing because the initial determination appears incorrect?

Answer. No. However, any redetermination must be consistent with the Federal requirements and instructions issued by the Secretary.

26. Question. What effect is there on a claimant's TRA maximum benefit amount (MBA) if that claimant, after July 3, 1992, elects to claim EUC rather than regular UI as provided in Section 102(a) of P. L. 102-318?

Answer. It depends on the answers to the following questions. (1) Does the claimant have a TRA balance remaining? (2) Does the claimant have weeks remaining in his/her TRA eligibility period? (3) Is the EUC attributable to the claimant's "first benefit period" as defined at 20 CFR 617.3(r)?

If the answer to any of the above questions is "no," the claimant's election to claim EUC (or regular compensation for that matter) will have no effect on that claimant's TRA MBA.

If, however, the answer is "yes" to all three questions, the claimant's TRA MBA will be reduced by the amount of EUC entitlement up to the amount of the claimant's TRA MBA or exhaustion of the claimant's TRA eligibility period, whichever occurs first, as provided in Section 233(a)(1) of the Trade Act of 1974. In this case, it should also be noted that Section 231(a)(3)(B) of the Trade Act of 1974 requires that the claimant must claim the EUC (or regular UI) rather than TRA for the weeks of unemployment to which the election applies.

If the answer to questions (1) and (2) above is "yes," but the answer to question (3) is "no," the claimant's TRA MBA will not be reduced by the EUC entitlement. However, Section 231(a)(3)(B) of the Trade Act of 1974

requires the claimant to exhaust the EUC and regular UI to which the claimant is entitled before the claimant may receive TRA. In this case, the effect is to postpone TRA eligibility.

Eligibility

1. Question. As a result of the "consecutive week" requirement which affected benefit entitlement for the weeks ending after June 13, some claimants' EUC entitlement was redetermined to zero. Those claimants were notified that they were EUC exhaustees and therefore, did not file claims for the weeks ending June 20 and thereafter until notified of the law changes. Since these claimants are now retroactively eligible for monetary redetermination up to 20, 26 or 33 weeks of entitlement and have remaining balances, may they be retroactively determined eligible for EUC for the intervening week(s)?

Answer. Yes. In such cases, eligibility for retroactive weeks claimed should be determined in accordance with State law pertaining to claims filing and reporting.

2. Question. A number of claimants' entitlement was redetermined after June 13, because of the previous "consecutive week" requirement, and the claimants notified that they were EUC exhaustees. Since these claimants are now retroactively eligible for monetary redetermination up to 20, 26 or 33 weeks of entitlement and have remaining balances, are they subject to the registration, reporting and systematic and sustained work search requirements for the intervening week(s)?

Answer. No. EUC eligibility requirements are effective with the week following the week in which the claimant is notified of the requirements.

Overpayments

1. Question. Do EUC overpayments which are now prohibited from being collected affect a State's performance on the overpayment collection DLA?

Answer. No. Only regular State UI overpayments are used in calculating the DLA. The separate report on EUC overpayments will reflect the write-off of EUC overpayments in accordance with the instructions on Page 26, GAL 4-92, Change 4, dated July 9, 1992.

2. Question. A claimant is in EUC benefit status after July 3, 1992 and it is discovered that the claimant could have established a benefit year for regular benefits with the base period change effective April 1, 1992. Is a retroactive EUC overpayment determination required in view of Sections 102(a) and (b)(2)(A) of P.L. 102-318 or is it allowable for the claimant to defer rights to regular benefits under Section 102(b)(2)(B) and continue on EUC claim?

Answer. The option to elect to file for EUC benefits based on a prior benefit year provided by Section 102(a) of P.L. 102-318 only applies to

a new claim to establish a regular benefit year for weeks of unemployment beginning on and after July 3, 1992. Although Section 102(b)(2)(B) prohibits the recovery of overpayments which resulted from the improper payment of EUC when the claimant had regular entitlement, it does not forgive the improper filing of an EUC claim that would have been proper if Section 102(a) had been in effect.

Therefore, the retroactive substitution of a regular claim for the EUC claim is required. After transfer of the EUC payments to the regular claim for the weeks paid thru July 4, any resulting overpayment should be handled in accordance with the requirements of Section 102(b)(2)(A) of P.L. 102318 and operating procedures issued in GAL 4-94, Change 4. A notice to the claimant of the overpayment and the provisions of Section 102(b)(2)(A) of P.L. 102-318 is required.

If the claimant elects to not defer rights to regular benefits for weeks ending after July 4, and the transfer of such EUC payments to the regular claim results in an overpayment, such overpayment is not subject to the prohibition in Section 102(b)(2)(A) of P.L. 102-318 and must be handled in accordance with the requirements of Section 105 of the EUC Act, as amended.

Interstate and Combined Wage Claims

1. Question. Is the agent or liable State responsible for informing the claimant of his/her claims filing options provided by the EUC Act, as amended?

Answer. Both the agent and liable States have responsibilities depending on the circumstances of the claim as follows:

Agent State responsibility: For claimants filing initial claims, it is the agent State's responsibility, in accordance with current interstate initial claimstaking procedures, to review each claimant's work history and prior claims history and advise the claimant of all filing options, including those afforded by the EUC Act, as amended. In view of Section 102(a) and (b)(2)(B), this means that the agent State must solicit information from the claimant concerning any prior claim with a benefit year ending after February 28, 1991 to determine if the claimant has an "applicable benefit year" for EUC purposes and calculate potential entitlement on any new claim, including interstate and CWC, using the information provided in the Interstate Claimstaking Handbook and advise the claimant of filing options.

Liable State responsibility: Claimants in regular benefit status must be notified of the provisions of Section 102(b)(2)(B) of P.L. 102-318 (and Section 102(b)(2)(A), as appropriate). This notification should include instructions to report to the agent State local office to file even when there is a prior benefit year in the current liable State because that prior benefit year may not be the "applicable benefit year" for EUC - -purposes.

2. Question. If a claimant has a benefit year ending after February 28, 1991 in more than one State, does the claimant have an option of which Interstate EUC claim to file?

Answer. No. The "applicable benefit year" for EUC purposes is determined in accordance with the requirements of 20 CFR 615.2(c)(2). In allowing an individual the option of electing to defer rights to regular benefits for weeks of unemployment beginning after July 3, 1992 and be defined as an "exhaustee" for EUC purposes, Section 102(b)(2)(B) of P.L. 102-318 does not alter the definition of an "applicable benefit year" for EUC purposes.

3. Question. When a claimant, who elects to defer regular CWC benefits to file for EUC, has a remaining balance on an overpayment in a transferring State which was being offset against the benefits payable on the CWC claim, must the State continue to offset the overpayment from EUC benefits payable to the claimant?

Answer. No. Offset of the transferring State's overpayment should be handled in accordance with the requirements of the State's agreement with the Secretary of Labor with respect to cross-program offset and/or the State's Interstate Reciprocal Overpayment Recovery Arrangement with the Interstate Conference of Employment Security Agencies.

4. Question. Since the CWC paying State has been instructed to charge EUC payments made after July 1, 1992 directly to the Federal government, is a notice of determination (Form IB-S) or quarterly bill (Eorm IB-6) required to be sent to the transferring State?

Answer. No. The elimination of the notice of determination and quarterly charges to the transferring State is effective with all EUC determinations issued on or after July 1, 1992. This includes all benefit charges after such date, without regard to the week for which benefits were paid, not already billed to a transferring State. Transferring States are responsible for reimbursing the paying State for all EUC payments for which they have been billed.

5. Question. If it is determined that an EUC claimant in one State had regular benefit entitlement in another State prior to the effective date of Section 102(a) of P.L. 102-318, should the second State backdate the regular claim and pay the same weeks that were paid on the EUC claim? Must the first State establish an EUC overpayment? Does Section 102(b)(2)(A) prohibit the first State from recovering the overpayment? Does the claimant have an option to defer regular benefits on the claim against the second State to file for EUC against the first State? Can the claimant refile for regular benefits against the second State when the EUC claim is exhausted in the first State?

Answer. In the case described, the following procedures should be followed.

The second State should:

- 1) backdate a substitute initial claim for regular benefits to the appropriate effective date after the exhaustion of regular benefits in the first State;
- 2) pay the claimant for all weeks claimed ending prior to the first week beginning on or after July 3 in accordance with State law and procedures governing the payment of weeks claimed that have been improperly paid by another State;
- 3) explain to the claimant the claims filing options provided by Section 102(b)(2)(B) of P.L. 102-318 effective with the week beginning July 5;
- 4) complete an interstate initial claim against the first State effective July 5 if the claimant elects the EUC option; and
- 5) advise the claimant of his/her rights to refile for regular benefits against the second State at any time.

The first State should determine the previously paid EUC benefits overpaid in accordance with the requirements of Section 105 of EUC Act, as amended.

Whether or not the overpaid benefit amount reduces EUC entitlement is determined in accordance with State law, policies and practices in the same manner as is applied to regular benefits. The prohibition against the recovery of the EUC overpayment in Section 102(b)(2)(A) of P.L. 102-318 applies and the claimant should be notified. This means that the State must issue an overpayment determination an explanation of why recovery is not being pursued.

6. Question. Under the Interstate Benefit Payment Plan, a claimant, with an existing benefit year, whose benefits have been indefinitely postponed, for a disqualifying separation until he/she has satisfied the State's requalifying requirement, has a right to file a claim against another State against which he/she has sufficient employment and wages to establish a benefit year. Does such a claimant, with a prior benefit year under another State's law, have a right to file an EUC claim against the other State under the provisions of Section 102(b)(2)(B) of P.L. 102-318?

Answer. No. Such an individual is not an "exhaustee" the provisions of 20 CFR 615.5 or Sections 102(a) and(b)(2)(B) of P.L. 102-318. Therefore, the individual has no rights to EUC based on the prior benefit year.

Fiscal

1. Question. P.L. 102-318 provides all claimants the option to postpone the filing of a new initial claim or defer regular benefit rights on an existing claim to file an EUC claim based on on "applicable benefit year." How will the administrative cost associated with explaining these options be provided?

Answer. The workload for this activity will be captured and included under the redetermination category (no separate breakout required) on the UI-3 worksheet. The workload count should represent each claimant, intrastate and interstate agent or liable, for which this activity was conducted. Staff years will be computed using a 20 minute MPU.

Please Note: An initial claim for regular or EUC benefits taken for the sole purpose of determining benefit options is not a reportable workload item as an initial claim and must not be reported. Only initial claims for regular or EUC that result from the claimant's election are reportable in accordance with the regular reporting instruction and the EUC reporting instruction issued in GAL 4-92.