

U.S. Department of Labor

Office of Inspector General—Office of Audit

**REPORT TO THE EMPLOYMENT
AND TRAINING ADMINISTRATION**



**ETA NEEDS STRONGER CONTROLS TO
ENSURE ONLY ELIGIBLE CLAIMANTS
RECEIVE UNEMPLOYMENT COMPENSATION
FOR FEDERAL EMPLOYEES**

Date Issued March 28, 2016
Report Number: 04-16-001-03-315

BRIEFLY...

March 28, 2016

ETA NEEDS STRONGER CONTROLS TO ENSURE ONLY ELIGIBLE CLAIMANTS RECEIVE UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

WHY OIG CONDUCTED THE AUDIT

The Unemployment Insurance (UI) program, designed to provide benefits to individuals out of work, has one of the highest improper payment rates of all government programs. One of the leading causes of improper UI payments is that states cannot determine if a claimant is eligible for benefits based on adequate base year wages or allowable reasons for separation. The Employment and Training Administration (ETA) administers the UI program. If ETA cannot ensure adequate controls exist so that states receive appropriate wage and separation information for the Unemployment Program for Federal Employees (UCFE) and Unemployment Program for Ex-servicemembers (UCX) programs, there will be a significant risk for improper payments in these programs.

WHAT OIG DID

We conducted this performance audit to determine the following:

Did ETA establish adequate controls to assist states in making accurate eligibility determinations for the UCFE and UCX programs?

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to: <http://www.oig.dol.gov/public/reports/oa/2016/04-16-001-03-315>.

WHAT OIG FOUND

ETA did not establish adequate controls to assist states in making accurate eligibility determinations for the UCFE program. ETA did not reasonably ensure federal agencies provided timely and complete separation information to states for making eligibility determinations. States request UCFE wage and separation information from federal agencies to verify that claimants meet eligibility requirements; however, federal agencies did not provide timely or complete separation information for 120 of 306 cases (39 percent) we tested in Maryland and North Carolina. As a result, states were forced to make benefit payments to claimants without having adequate assurance that claimants were eligible for those benefits. Through its use of Benefit Accuracy Measurement data, ETA has found that inadequate separation information is a leading cause of improper payments in UI programs.

We found no such issues in the UCX program.

WHAT OIG RECOMMENDED

We made three recommendations to the Assistant Secretary for Employment and Training to strengthen the process used to approve UCFE claims. These included directing federal agencies to provide employees with a completed copy of Form ETA-931 at separation, and developing and disseminating a uniform list of reasons for separation to assist federal agencies in completing the form.

ETA stated that for due process and integrity-related reasons, states are required to contact the employer directly for separation information. We agree that states would still need to provide federal agencies a timely opportunity to dispute separation information, but our recommendation could improve the information states use to make claim determinations. ETA also stated that it is not possible to create an exhaustive list of acceptable reasons for separation. We did not recommend ETA's list be exhaustive, but that the list should contain the most common separation reasons. It would be left to each state to determine, based on state law, what is acceptable. ETA's response to our draft report is included in its entirety in Appendix B.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



March 28, 2016

INSPECTOR GENERAL'S REPORT

Portia Wu
Assistant Secretary
for Employment and Training
200 Constitution Avenue, NW
Washington, D.C. 20210

The U.S. Department of Labor's (DOL) Employment and Training Administration (ETA) partners with State Workforce Agencies (states) to operate the Unemployment Insurance (UI) program. The regular UI program provides benefits to workers who are unemployed or underemployed and offers support against the effects of unemployment. In addition to the regular UI program, there are two other permanent unemployment compensation programs: (1) Unemployment Compensation for Federal Employees (UCFE), and (2) Unemployment Compensation for Ex-servicemembers (UCX). In Fiscal year (FY) 2013, UCFE and UCX benefit payments totaled \$359 million and \$790 million, respectively.

States must rely on federal agencies or branches of military services to provide timely and complete wage and separation information in order to make accurate eligibility determinations when processing UCFE and UCX claims.

We conducted this performance audit to determine the following:

Did ETA establish adequate controls to assist states in making accurate eligibility determinations for the UCFE and UCX programs?

RESULTS IN BRIEF

ETA did not establish adequate controls to assist states in making accurate eligibility determinations for the UCFE program. The controls were not adequate to ensure federal agencies provided timely and complete¹ separation information needed by states to make correct eligibility determinations. States request wage and separation information from federal agencies when former federal employees file for UCFE

¹Separation information is not complete if it is not descriptive enough to enable state officials to determine whether the claim is valid under state law. Simply stating the nature of the action (terminated or quit) is not usually sufficient.

benefits, but federal agencies frequently did not respond timely, or at all, to these requests, or did not provide complete separation information. As a result, states were forced to determine a claimant's eligibility and make benefit payments based on nothing more than a signed statement provided by the claimant. This lack of timely and complete separation information did not provide state officials assurance that payments were only being made to eligible former federal employees. We found no such issues in the UCX program.

BACKGROUND

The UI program is a federal-state partnership based on federal law, but administered by state employees under their own state laws. Claimants must meet their applicable state's wage and job separation requirements to be determined eligible for UI benefits. All states require that a claimant must have earned a specified amount of wages or worked a certain number of weeks, or calendar quarters, to qualify for UI benefits. States also establish their own acceptable reasons for job separation, which claimants have to meet to be eligible for UI benefits.

States administer the UCFE program on behalf of the federal government, using their own eligibility laws. The UCFE program requires that states determine claimant eligibility by requesting wage and separation information from employing federal agencies using the Request for Wage and Separation Information (ETA 931). If a federal agency fails to provide the needed wage and separation information within 12 days of the request date, federal regulations require the state to make eligibility determinations using the claimant's affidavit.

States also administer the UCX program on behalf of the federal government, but must follow DOL's list of acceptable separation reasons and Federal Schedule of Remuneration to determine eligibility. The UCX program requires that states determine claimant eligibility by utilizing the Certificate of Release or Discharge (DD 214), which details the ex-service member's wage and separation information.

RESULTS

ETA did not establish adequate controls to assist states in making accurate eligibility determinations for the UCFE program because federal agencies frequently did not provide timely and complete separation information for making eligibility determinations. ETA has found the lack of adequate separation information is one of the leading causes of improper payments in UI programs. Controls established over the UCX program were more effective, and we did not find the same challenges with UCX as we did with UCFE.

ETA CONTROLS OVER THE UCFE PROGRAM WERE INADEQUATE TO ENSURE STATES RECEIVED SEPARATION INFORMATION

ETA did not establish adequate controls over the UCFE program to ensure states received timely and complete separation information. As a result, state officials were forced to rely on claimants' affidavits when making initial eligibility determinations. If a federal agency subsequently provides information that differs from the claimant's affidavit, the state must issue a redetermination based on the information provided by the federal agency, which could result in the establishment of overpayments.

We visited the Maryland Department of Labor, Licensing and Regulation's Division of Unemployment Insurance (Maryland); and the North Carolina Department of Commerce's Division of Employment Security (North Carolina). At each site, we reviewed claimant eligibility documentation for consistency with federal and state requirements for samples of UCFE claimants whose first benefit payment was received during FY 2012 or 2013. We randomly selected 306 UCFE claims totaling approximately \$2.6 million in benefits paid. For each claimant selected, we reviewed the claims process and available documentation to assess whether the required procedures had been followed and whether the eligibility determination was adequately supported.

Our testing found that for 120 of the 306 UCFE cases (39 percent), Maryland and North Carolina made initial eligibility determinations without having received timely and complete separation information from the claimants' federal agencies. These claims represented approximately \$1 million of the approximately \$2.6 million in benefits we tested.

Maryland and North Carolina experienced the following challenges in obtaining timely and complete separation information:²

- The federal agency returned ETA-931 late (50 instances).
- The federal agency never returned ETA-931 to the state (47 instances).
- The ETA-931 returned by the federal agency either did not include a reason for the claimant's separation or the reason the federal agency provided was not complete enough to enable the state to determine eligibility (29 instances). For example, a federal agency returned one ETA-931 to North Carolina with "Termination" as the reason for separation, which was too vague to allow North Carolina officials to make an informed determination.

The limitations Maryland and North Carolina faced in making eligibility determinations without timely or complete separation information were consistent in both states. See Table 1 for a breakdown of our findings by state:

² The total number of claimants whose separation information was not received from the federal agencies differs from the combined total of the individual reasons because six ETA-931 forms (four in Maryland and two in North Carolina) were both late and contained an inadequate separation reason.

Table 1: Separation Information Late, Not Provided, or Not Complete

State	Cases Sampled	Total Late or Information Not Complete	ETA-931 Received Late	No ETA-931 Received	Separation Not Complete	Total Payments
MD	151	64	24	26	18	\$1,624,629
NC	155	56	26	21	11	\$993,971
Totals	306	120	50	47	29	\$2,618,600

Federal regulations³ require states to obtain information necessary for making UCFE claim determinations from the federal agency that employed the claimant. DOL has prescribed that federal agencies use the *Request for Wage and Separation Information* (ETA-931) — which includes confirmation of federal civilian services, base period wages, and the reason for separation or non-pay status — to provide this information to the states. ETA directs states to send the ETA-931 to the federal agency the same day the claim is taken.⁴ Because there is no required process for the request, states use their own individual systems and processes to send the ETA-931 to federal agencies. If the federal agency fails to return ETA-931 with the requested wage and separation information to the state within 12 days of the state agency sending the form, the state is required to make an initial determination on the claimant's entitlement to benefits based on the claimant's affidavit.⁵ If the state subsequently receives contradictory information from the federal agency, it is required to make a redetermination and notify the claimant of the revised eligibility determination or of any change in the approved benefit amount.⁶

Based on these results (we sampled the UCFE populations in both Maryland and North Carolina separately, using a 95 percent confidence level), we estimate Maryland may have approved 716 (43 percent) of 1,684 UCFE claims without having received timely or complete separation information from the federal agency. We are 95 percent confident that Maryland did not receive timely or complete separation information for at least 584 claimants and as many as 847. Similarly, we estimated that North Carolina may have approved 877 (33 percent) of 2,642 claims without timely or complete separation information. We are 95 percent confident that North Carolina did not receive timely or complete separation information for at least 690 claimants and as many as 1,065.

In total, we found 29 instances in which federal agencies returned ETA-931 either with no reason for separation information included on the form or a reason for separation that was not descriptive enough for the state to make an informed eligibility

³ Title 20, Code of Federal Regulations (20 CFR), Part 609, Section 609.6(e)(1)

⁴ UCFE Handbook 391 for State Agencies (Handbook), page IV-4

⁵ 20 CFR, Part 609, Section 609.6e(2)

⁶ 20 CFR, Part 609, Section 609.6e(3)

determination. ETA instructs federal agencies that when they provide separation information for employees who voluntarily leave or are discharged the provided information needs to do more than just state the nature of the action.⁷

The agency should always describe the reason the employee provided for quitting or the factual information that led to the employee's discharge. That being said, it would be helpful if ETA developed a standard list of the most common reasons why a claimant's employment ended. Such a list would provide uniformity to the request for separation information. States would be able to compare the list with their individual UI laws and determine which reasons are allowable and which are not. Federal agencies could always provide additional explanation when necessary. By developing a list of the most common separation reasons, ETA would help reduce or eliminate the use of one word answers, such as "quit" or "terminated", thereby reducing the need for states to follow up with federal agencies or make determinations based on claimant affidavits.

In situations where federal agencies return the ETA-931 with incomplete information or information that is obviously in error, the Handbook encourages state officials to telephone the federal agency to obtain the needed information.⁸ We found several examples where state officials contacted the responsible federal agencies for additional information related to an initial eligibility determination or an appeal hearing, but the federal agencies did not respond to the requests.

ETA's system of controls over UCFE claims was not adequate to reasonably ensure federal agencies provided timely and complete separation information to states for making eligibility determinations. Incorporating changes to the UCFE program to make federal agencies provide more timely and complete separation information would help state officials in their efforts to make accurate and timely determinations. Specifically, if ETA directed federal agencies to provide a copy of ETA-931 to an employee upon the employee's separation and the employee provided the form to the states upon application, the state would have timely information to make an accurate determination. The states could still routinely confirm reported wages and reason(s) for separation information with the federal agencies, but the federal agencies would only need to respond on an as-needed basis. Additionally, the quality of the separation information federal agencies provide could be improved by ETA developing and providing federal agencies uniform reasons for separation for them to use when completing ETA-931. States could compare the uniform reasons for separation with their individual state UI laws and determine for themselves which reasons would lead to an acceptable claim and which reasons would not.

⁷ ETA issued UCFE Instructions for Federal Agencies, dated March 1995, Chapter VII.

⁸ UCFE Handbook, Chapter IV.3.10

JOB SEPARATION ISSUES WERE A LEADING CAUSE OF IMPROPER PAYMENTS IN THE UI PROGRAM

ETA reported Benefit Accuracy Measurement⁹ (BAM) results that consistently identified job separation issues as a leading cause for improper UI payments. BAM results are for the three major UI programs combined and do not specifically distinguish the UCFE and UCX programs from the regular UI program. Job separation issues include employers that failed to provide timely and complete separation information.

On June 10, 2011, ETA issued an Unemployment Insurance Program Letter (UIPL) directing state administrators to develop strategies to reduce the UI improper payment rate.¹⁰ The UIPL included the estimated improper payment rate for the 2010 Improper Payments Information Act (IPIA) reporting period (July 2009 to June 2010) of 11.2 percent. Based on these estimates, the second leading cause for improper payments was untimely and/or incomplete job separation information, which accounted for 19 percent of improper payments.¹¹

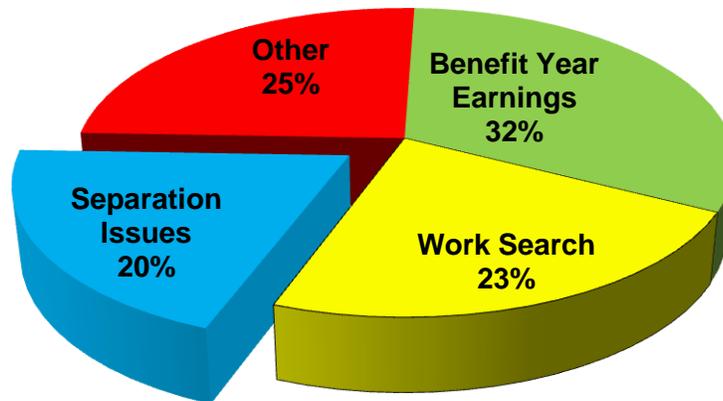
Estimates of UI improper payments for the 2012 and 2013 IPIA reporting periods indicate that separation issues have remained a leading cause of improper payments. As shown in Chart 1 below, separation issues were the third leading cause of improper payments, at an average of 20 percent. The estimated amount of improper payments associated with separation issues for 2012–2013 was \$1.9 billion.

⁹ The BAM program is designed to determine the accuracy of paid and denied claims in three major UI programs (State UI, UCFE, and UCX). BAM results are for the three major UI programs combined and do not specifically distinguish between the individual programs. BAM data is subject to sampling and non-sampling errors, such as incomplete or improperly defined sampling frames, errors of interpretation and data entry errors. ETA uses the BAM sampling to accomplish its goals by reconstructing the UI claims process for samples of weekly payments and denied claims using data verified by trained investigators. State investigators determine and report the cause and responsible party for any error.

¹⁰ UIPL No. 19-11, included the subject line: *National Effort to Reduce Improper Payments in the Unemployment Insurance (UI) Program.*

¹¹ The four main causes for UI improper payments cited in UIPL 19-11 were 1) payments made to claimants who continue to claim benefits after returning to work and fail to report (or under-report) their earnings, often referred to as Benefit Year Earnings (BYE), (29.3%); 2) untimely and/or incomplete job separation information (for example, states may receive important information about claimants' separation from work after the issues have been adjudicated and the claims paid, due to the failure of the employers or their third party administrators to provide timely and complete information on the reason for the individuals' separation from employment (19.0%); 3) the state's inability to validate that claimants have met the state's work search requirements (18.2%); and, 4) claimants' failure to register with the state's Employment Service as required by state law or the agency's failure to process Employment Service registrations (11.7%).

**Chart 1: Causes of Improper Payments
2012 - 2013 ***



*Causes of Improper Payments are based on BAM results for the three major program areas (regular UI, UCFE, and UCX) combined and are not specific to UCFE and/or UCX individually.

UCX CONTROLS ASSISTED STATES IN MAKING ACCURATE ELIGIBILITY DETERMINATIONS

We tested 105 UCX cases in Maryland and North Carolina, totaling approximately \$1 million in claims, and found for those cases that the systems in place were working to provide adequate assurance that claimants were eligible for the UI benefits they received.

Upon receipt of a UCX claim, states must send a request to the Federal Claims Control Center (FCCC)¹² to obtain wage and separation information via the *Certificate of Release or Discharge* (DD 214). The DD Form 214, Certificate of Release or Discharge from Active Duty, generally referred to as a "DD 214", is a document of the United States Department of Defense, issued upon a military service member's retirement, separation, or discharge from active-duty military.

ETA published a list of acceptable narrative reasons for separation to the states to use when making an eligibility determination. If the reason provided by the branch of military service on the DD 214 does not match one of the acceptable reasons, ETA has directed states not to approve the claim. If the claimant's branch of military service has not provided a copy of DD 214 to FCCC by the time the state sends its request, the state may use the claimant's copy of DD 214 to determine eligibility.

¹² Effective April 1, 2003, ETA designated FCCC as the claims control center for both the UCX and UCFE programs. ETA directed states to use FCCC as their primary source of military wage and separation information.

In 2013, ETA implemented its Military-State Data Exchange System, which automated the notice of initial claim being filed and the notice of claim establishment, and provided branches of military service the ability to respond to states electronically. By replacing a predominantly paper system, ETA believes it has improved processing time and reduced errors and erroneous payments for the UCX program.

On September 15, 2014, ETA announced that it had awarded more than \$66 million to states for UI program integrity. To qualify for these funds, states must have implemented, or committed to implement, required integrity activities, including UCX automation. ETA officials told us they are in the process of implementing a similar automated system for the UCFE program, which to do successfully will require acceptance by both the states and federal agencies. Agency officials believe that implementing a UCFE data exchange system between the states and federal agencies will help to reduce the problems our audit identified in Maryland and North Carolina.

OIG RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

1. Develop and implement procedures for federal agencies to provide separated employees with a completed copy of ETA-931 at the time of their separation.
2. Develop and disseminate a uniform list of reasons for separation to assist federal agencies in completing ETA-931.
3. Complete its planned implementation of an electronic data exchange system for the UCFE program.

MANAGEMENT RESPONSE

ETA stated that for due process and integrity-related reasons, states are required to contact employers directly to provide notice of UI claims and obtain necessary information. ETA believes providing separated employees with a copy of the ETA-931 will not negate a state's obligation and will not address the identified problem. Our position is that providing employees a copy of the ETA-931 at separation will provide the state with an additional source of information that could lead to more accurate eligibility determinations for those cases when federal agencies do not respond timely. It may also serve as a deterrent to keep claimants from verbally providing an incorrect reason for separation, but would not infringe upon a federal agency's right to refute any information provided to the state or to appeal a determination of eligibility.

ETA stated it is not possible to create an exhaustive list of reasons for separation that could be designated as "acceptable reasons." This is not the intent of the recommendation. The list of reasons for separation would not have to be exhaustive

and the purpose is not to designate what reasons are acceptable, but rather to provide uniformity regarding the most common reasons for separation and allow each state to determine, based on state law, which reasons are acceptable.

Our recommendations remain unchanged. Management's response to our draft report is included in its entirety in Appendix B.

We appreciate the cooperation and courtesies that ETA personnel extended to the Office of Inspector General during this audit. OIG personnel who made major contributions to this report are listed in Appendix C.



Elliot P. Lewis
Assistant Inspector General
for Audit

Appendices

APPENDIX A

OBJECTIVE, SCOPE, METHODOLOGY, AND CRITERIA

OBJECTIVE

Did ETA establish adequate controls to assist states in making accurate eligibility determinations for the UCFE and UCX programs?

SCOPE

This report reflects audit work conducted onsite at ETA's Office of Unemployment Insurance (OUI) headquarters in Washington DC; ETA's Atlanta, GA and Philadelphia, PA Regional Offices; Maryland's Department of Labor, Licensing, and Regulation Office located in Baltimore, MD; and North Carolina's Division of Employment Services located in Raleigh, NC. Our scope covered ETA's controls and oversight over the UCFE and UCX programs during FYs 2012 and 2013. As shown in Tables 2 and 3 below, our scope also included all Maryland and North Carolina UCFE and UCX claims that had the first payments made during FYs 2012 and 2013:

Table 2: UCFE Universe and Claims Tested

State	Claims		Sample	
	Universe	Benefits Paid	Tested	Benefits Paid
Maryland	1,684	\$17,788,973	151	\$1,624,629
North Carolina	2,642	\$16,077,026	155	\$993,971
Totals	4,326	\$33,865,999	306	\$2,618,600

Table 3: UCX Universe and Claims Tested

State	Claims		Sample	
	Universe	Benefits Paid	Tested	Benefits Paid
Maryland	2,611	\$29,858,157	50	\$559,956
North Carolina	9,883	\$92,832,062	55	\$488,609
Totals	12,494	\$122,690,219	105	\$1,048,565

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence

obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

METHODOLOGY

To accomplish our audit objective, we identified ETA's written policies and procedures and interviewed ETA OUI and Regional Office officials to gain an understanding of ETA's controls and oversight over the UCFE and UCX programs. This included ETA's oversight of the state's UCFE and UCX eligibility determination processes.

We obtained IPIA and BAM annual reports for FYs 2012 and 2013 to determine the leading causes for overpayments. We obtained a database from ETA that detailed FYs 2012 and 2013 UI payment data for all UI programs, which included the total outlays paid, total overpayments established and recovered, and overpayment detection rates for all states. We analyzed this data to determine which states had the highest amounts of UCFE and UCX benefits paid, and which of those state's UI programs were the best and worst performing based on ETA's UI performance measures. Based on our analysis we selected two states to audit, one that we determined to be performing well — Maryland, and one we determined to be performing poorly — North Carolina.

We conducted audit work at both the states of Maryland and North Carolina. This included conducting interviews, testing internal controls and systems, and reviewing each state's UCFE and UCX eligibility processes and systems.

We tested both Maryland and North Carolina's UCFE samples in their entirety to determine whether the applicable state received adequate separation reasons prior to making eligibility determinations; this included whether the federal agency provided the ETA-931 within 12 days, whether the claim had either ETA-931 or 935 (claimant affidavit) on file, and whether the state's eligibility decisions could be supported by the claim file.

To determine if Maryland and North Carolina properly determined eligibility for claimants who received UCX benefits, we tested UCX case files on site at each state to ensure the state received a DD 214 that supported the monetary and nonmonetary determinations made by the state for each UCX claimant. We found no eligibility determination issues with the UCX samples for both states after testing 50 claims for Maryland and 55 claims for North Carolina, so we stopped testing.

We considered the internal control elements of control environment, risk assessment, control activities, information and communication, and monitoring during our planning and substantive audit steps. We performed internal control work for ETA's oversight of UCX and UCFE eligibility determinations, and the detection and recovery of overpayments. During our work, we found that ETA had not established adequate controls to ensure that Maryland and North Carolina enrolled only eligible individuals in

the UCFE program. We have reported on the deficiencies found in the UCFE eligibility determination process.

We assessed the reliability of computer processed data at Maryland and North Carolina by assessing the completeness of the data provided and testing the data for accuracy and consistency. We found the data was sufficiently reliable for the purposes of this report. We also placed limited reliance on the BAM data ETA reported for IPIA. Our reliance on the BAM data was limited to the purpose demonstrating that ETA considered the lack of separation information was one of the leading causes of improper payments. We did not perform any testing of the BAM data for this audit, but a prior OIG audit report¹³ issued in September 2003 found that BAM accurately detected and reported overpayments. We found the BAM data sufficiently reliable for our limited use.

CRITERIA

- ET Handbook No. 384 – Unemployment Compensation for Ex-servicemembers
- ET Handbook No. 391 – Unemployment Compensation for Federal Employees
- ETA issued Training and Employment Notice 20-12, Unemployment Compensation for Ex-servicemembers – UCX Claims Processing Enhancements
- 20 CFR, Section 609.6(e)(1)(2)(3) (Obtaining information for claim determinations)
- UIPL No. 19-11, National Effort to Reduce Improper Payments in the UI Program
- UIPL No. 47-01, Electronic Exchange of Wage and Separation Information for the UCFE and UCX programs

¹³ OIG audit report entitled: *Improved Quality Control Practices Within the Benefit Accuracy Measurement System Could Save the Unemployment Trust Fund Approximately \$400 Million Annually*, Report Number 22-03-009-03-315, issued September 30, 2003.

ETA's RESPONSE

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



MAR 23 2016

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: PORTIA WU 
Assistant Secretary

SUBJECT: Response to the Office of Inspector General (OIG) Audit of the
Unemployment Compensation for Federal Employees and
Unemployment Compensation for Ex-Servicemembers Programs –
Draft Report No. 04-16-001-03-315

Thank you for the opportunity to respond to the subject report. The Employment and Training Administration (ETA) continues to work aggressively with states to improve program operations for Federal unemployment compensation programs, including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX).

ETA appreciates the acknowledgement on page two of the report that you found no issues with the controls for the UCX program. ETA worked closely with state agencies and the Department of Defense (DOD) to implement an effective data exchange between the states and DOD for UCX claims processing.

With regard to the UCFE program, we note that ETA provides Federal agencies with an online handbook to support their roles in the program. The handbook can be found at <http://oui.doleta.gov/unemploy/unemcomp.asp>, (see *UCFE Instructions for Federal Agencies*, located at the bottom of the page).

Below are the three recommendations made by the OIG related to the UCFE program as provided in the draft report and ETA's responses to the recommendations:

1. **Develop and implement procedures for federal agencies to provide separated employees with a completed copy of ETA-931 at the time of their separation.**

ETA Response: The Form ETA-931, *Request for Wage and Separation Information - UCFE*, serves as an important internal control for the Unemployment Insurance (UI) system and for UCFE purposes. For due process and integrity-related reasons, states are required to contact employers directly to provide notice of all UI claims filed and to obtain necessary information related to separation issues. The employer response is considered an attestation of the accuracy of the facts. Generally, the state uses the employer responses to establish the claim and determine if the claimant lost his/her employment through no fault of his/her own. In most states, if the employer response is received timely, then the employer is considered to be an interested party and, therefore,

receives a copy of any separation-related decisions, along with any appeal instructions. Filing an appeal is the only way to challenge a state's decision and protect an employer's rights under the state's UI law. Providing separated employees with a copy of the ETA-931 would not negate the state's responsibility to obtain and verify the separation information directly with the employer, particularly since each state must adjudicate the separation issue under its own UI law.

For the reasons stated above, ETA does not view the recommendation as one that will address the identified problem. States still need to contact employers and attempt to verify separation information with the employer. As an alternative to this recommendation, ETA suggests and is committed to providing additional training and outreach to Federal agencies to educate them on the importance of completing the ETA-931 and returning it timely to the state UI agency.

2. Develop and disseminate a uniform list of reasons for separation to assist federal agencies in completing ETA-931.

ETA Response: ETA appreciates the findings by the OIG concerning the UCX program and understands why the OIG is encouraging ETA to create similar processes in the UCFE program as are set out in the UCX program. However, the UCFE program has requirements that are significantly different from the UCX program. Military separations are not adjudicated in accordance with state laws for UCX purposes. Instead, the Department of Labor (Department) develops and issues a list of "acceptable narrative reasons" for purposes of allowing military service to be considered "federal service" that can be used to establish eligibility for UCX benefits. The Department develops the list based on a finite number of reasons that DOD uses for military discharges. If a claimant wishes to protest the reason for discharge listed on the military's DD-214, *Certificate of Release or Discharge from Active Duty*, such protest is addressed by the appropriate military branch of service – not the state UI agency.

Unlike the UCX program, UCFE separations are adjudicated in the same manner as separations under the regular state UI program and both monetary and nonmonetary determinations are made under the applicable state UI law. For UCFE claims, it is not possible to create an exhaustive list of reasons for separation from Federal employment that could be designated as "acceptable reasons." Each state, according to its own UI law, has different definitions and eligibility provisions for separation issues. Separations involving a voluntary quit or a discharge require fact finding and judgment on the part of state UI adjudicators to make determinations of eligibility based on state law. UCFE claimants that disagree with determinations made by the state may appeal such determinations under the state UI law.

For the reasons discussed above, ETA does not view this recommendation as an approach that is workable or applicable to the UCFE program. ETA suggests an alternative approach. We are committed to providing additional training and outreach to Federal agencies regarding the type of information states need to adjudicate eligibility issues during the fact-finding process.

3. Complete its planned implementation of an electronic data exchange system for the UCFE program.

ETA Response: There is considerable interest at both the Federal and state levels to automate UCFE. ETA is in the early stages of developing a plan for this effort. Steps taken to date include engagement with the Office of Personnel Management to help champion UCFE automation with Federal agencies and identifying the most efficient technology solution using existing technology platforms that are used for other UI purposes. Similar to the UCX automation initiative, ETA will convene a workgroup with representatives from ETA, other Federal agencies, and states to develop business requirements for the project and to support testing and rollout once the technology solution is developed. ETA expects to move this project forward in Fiscal Year 2016, but is unable to project a completion date at this time.

Again, we appreciate the opportunity to respond to your draft report and its recommendations. If you have questions, please contact Gay M. Gilbert, Administrator, Office of Unemployment Insurance, at (202) 693-3029.

APPENDIX C

ACKNOWLEDGEMENTS

Key contributors to this report were Dwight Gates (Audit Director), Mark Sanderson (Audit Manager), Cory Grode, Travis Williams, Laura Brockway, Lorenzo Thornton, and Christine Allen.

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