



EVOLVE EXPANDE EXCEL
Emerge to Greater Heights

2022 DoD VIRTUAL BENEFITS & WORK-LIFE SYMPOSIUM



ETA-931, ETA-931A and Appeals

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Agenda

- ETA-931 – Request for Wage and Separation Information
- ETA-931A – Request for Information on an Additional Claim
- Unemployment Compensation (UC) Notices
- UC Appeals Process

Overview

- At the end of this course, attendees should be able to:
 - Understand the purpose of the ETA-931 and ETA-931A
 - Know the requirements of the ETA-931 and ETA-931A forms
 - Recognize the different types of state UC notices
 - Understand the UC appeals process

What is the ETA-931?

- Request for Wage and Separation Information.
- States send this form to the claimant's separating federal agency when a UC claim has been established.
- The form is sent to the address listed on the SF-8. If no SF-8, the form is sent to the address on the Department of Labor's Federal Agency Directory or the address provided by the claimant.

ETA-931 Contents

- State contact information
- Name and Federal Identification Number (FIC) of the federal agency.
- Claimant's name and Social Security Number.
- Date of request
- Date claim taken
- Effective date of the claim

ETA-931 Contents

- Questions to determine if the claimant's work counts as federal civilian service for UC purposes.
- Request for at least 6 quarters of wages.
- Lump sum annual leave and severance payments.
- Date of separation
- The specific reason that led to the separation

What is the ETA-931A?

- Request for Information for Additional UCFE Claim
- Used 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 reopening his/her claim after an intervening period of employment in a Federal agency.
- Subject to the same response time as the ETA-931 and all other UCFE related forms.
- Failure to respond timely can lead to the claimant receiving benefits to which they are not entitled.

ETA-931A Contents

- State contact information.
- Federal agency name, FIC, and address.
- The date of the request.
- The effective date of the claim.
- The claimant's name and SSN.
- Date and reason for the separation.
- Information for the payment of annual leave and severance pay.

Completing the Forms

- Federal agencies must send a response within 12 days of the mailing date.
- Failure to respond timely can lead to the claimant receiving benefits to which they are not entitled and the employer losing its “interested party” status.
- The Defense Injury and Unemployment Compensation System (DIUCS) should be used to complete the ETA-931 and ETA-931A response.
- When DIUCS is down the ETA-931 and ETA-931A forms should be completed on paper.

Knowledge Check

What is the purpose of the ETA-931?

Answer

To request wage and separation information on a UCFE claimant

Knowledge Check

Why does the state need at least 6 quarters of wages?

Answer

To determine if the claimant meets the state's monetary eligibility for the base period.

Appeals

State Notices

- Notice of Financial Determination or Monetary Determination
 - Used to notify the claimant and the employer of the financial eligibility of the claimant and provides information on appeal rights.
- Notice of Non-Monetary Determination
 - Notifies the claimant and employer of the state's determination of non-monetary issues.
- Quarterly Listing or Detailed Listing
 - Identifies current or former employees who filed and received benefits from a particular state.

General Appeals Information

- All states provide the claimant and employer, that maintain their “interested party” status, the opportunity to appeal an adverse UC determination.
- Generally, the Federal agency, which was the last employer before the claimant filed a claim, is an "interested party" to the initial determination.
- Federal agencies can lose their “interested party” status by not responding timely to the state’s request for information.
- The timeframe in order to file an appeal varies from state to state.
- Since federal agencies are responsible for reimbursing the state for UC benefits paid, it is important that the agency exercise its appeal rights.



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General Appeals Information

- Reasons for filing an appeal
 - To correct errors in the state's finding of facts
 - Errors in the interpretation of the information provided by the federal agency
 - Interpretation of state UC law
 - Interpretation of federal UCFE law
- Most states have two administrative levels of appeals
- Generally the second level is a review of the first level determination
- All states have a judicial review in the state courts once all administrative appeals are exhausted

Appealing Determinations

- UCPAs must review the state's UC determination to see if an appeal is warranted.
- If appeal is warranted, follow the appeal instructions on the state's Notice of Determination form.
- File the appeal timely. If it is not timely, you must provide a "good cause" reason for the late filing.
- The state will send a Notice of Hearing to all interested parties.
- If the UCPA needs to postpone the hearing, they should assume the hearing will be held as scheduled until notified by the state of the postponement.

Appeal Notices

- Notice of Appeal
 - A form completed by the claimant or employer to notify the state of its intent to appeal a determination. This can be done by sending in a letter or completing the state issued form.
- Notice of Hearing
 - A form that is mailed to each interested party notifying them of the date, time, and method of the hearing.

Appeal Notices

- Appeals Decision
 - The names of the form varies from state to state. This form provides the decision of the first level appeal. It also provides further appeal rights and instructions.
- Decision of Appeals Board
 - The name of this form varies from state to state. This form identifies the second level appeal body's findings of fact, reasoning and decision on a determination appealed by either the claimant or the employer. It also provides further appeal rights and instructions.

Knowledge Check

Name 2 notices that states send to federal agencies not related to appeals.

Answer

Notice of Financial Determination or Monetary Determination
Notice of Non-Monetary Determination
Quarterly Listing or Detailed Listing

Knowledge Check

Name 3 reasons why a federal agency would appeal a UC determination.

Answer

To correct errors in the state's finding of facts

Errors in the interpretation of the information provided by the federal agency

Interpretation of state UC law

Interpretation of federal UCFE law

First-Level Appeal Preparation

- If the UCPA files an appeal, preparation for the hearing should begin immediately.
- The UCPA should assemble any witnesses with firsthand knowledge of the situation under appeal as well as any related documents to offer as exhibits.
- Exhibits must be provided to the state and the claimant prior to the hearing.

First-Level Appeal Preparation

- The UCPA must determine who should be the representative for the agency. The UCPA may also want to work with the component's legal office if assistance is needed.
- The DoD representative may direct the testimony of DoD's witnesses, cross-examine the claimant and their witnesses, and offer documents as exhibits during the hearing.

First-Level Appeal Preparation Voluntary Resignation

- SF-52 “Request for Personnel Action”
- SF-50 “Notification of Personnel Action”
- Resignation letter provided by the claimant
- Vacancy announcement or position description which provides the conditions of employment
- Other documents that support the voluntary resignation

First-Level Appeals Preparation Discharge

- Notice of proposed removal
- Decision of removal
- Oral and written warnings
- Letters of reprimand
- Proposal and notice of suspension
- Drug policy and test results

First-Level Appeals Preparation Discharge

- Attendance
 - Timesheets
 - Payroll records
 - Time and attendance office policy
 - Standards of conduct
 - Employee handbook
 - Memoranda supporting the time and attendance policy
- Falsification of Records
 - Employment application
 - Table of offenses, penalties or standards of conduct
 - Notification to the claimant warning of discharge for falsifying documents

General Hearing Procedures

- Most hearings occur telephonically.
- The DoD representative should provide the phone information to all witnesses.
- When the hearing begins, the hearing official will explain the hearing procedures.
- Each state has their own hearing procedures.
- The hearing will be recorded.
- Any person that provides testimony will be placed under oath.
- The hearing official will begin asking both parties questions about the issue under appeal.

General Hearing Procedures

- The hearing official begins testimony by asking the witnesses questions about the issue under appeal.
- The DoD representative will be given the opportunity to ask additional questions of the witnesses.
- The claimant will be given the opportunity to cross-examine the witnesses.
- After cross-examination, the hearing official may ask the witnesses additional questions.
- The hearing official will ask for closing statements once testimony and cross-examination has ended.

General Hearing Procedures

- The DoD representative can provide a closing argument summarizing the main points of the case.
- New testimony cannot be provided during the closing statement nor can the representative comment on evidence not presented.
- The hearing official will end the hearing after closing statements.
- A decision from the hearing will not be given to the parties immediately following the hearing. The decision will be mailed.

Second-Level Appeals

- If the UCPA decides to file a second-level appeal, they should follow the instructions on the Appeals Decision.
- Generally, a hearing is not scheduled for the second level appeal.
- If another hearing is scheduled, all interested parties will be notified.
- The second level appeals officials will review the information provided at the first-level appeal and, if accepted, any new evidence.
- The hearing officials will issue a decision which will affirm, reverse, or modify the first-level decision.

Judicial Review

- If the component disagrees with the second-level appeal, or the first-level appeal if the state does not have a second-level, it can file an appeal with the appropriate state level court.
- Instructions on how to file a judicial appeal will be provided on the appeal decision.
- The component must contact its legal department for appropriate representation in court.

Knowledge Check

Name 3 documents that a federal agency should provide to the state for a first-level appeal hearing when the claimant was discharged.

Answer

Notice of proposed removal

Decision of removal

Oral and written warnings

Letters of reprimand

Proposal and notice of suspension

Drug policy and test results

Knowledge Check

What are the 3 possible outcomes of a second-level appeal?

Answer

Affirm

Reverse

Modify

Knowledge Check

True or False. Only the hearing official may ask questions of the parties and witnesses during the hearing testimony?

Answer

False

Resources

- 20 CFR Part 609
- UCFE Instructions for Federal Agencies
<https://oui.doleta.gov/unemploy/pdf/UCFE.pdf>
- UCFE Determinations Guide – Federal Agencies Responsibilities
https://oui.doleta.gov/unemploy/ucfe/ucfe_fed_agency_responsibilities.pdf
- UCFE Training for Federal Agencies
<https://oui.doleta.gov/unemploy/ucfe/presenter/index.htm>
- Comparison of State UI Laws
<https://oui.doleta.gov/unemploy/statelaws.asp#RecentStatelaw>

Resources

- CareerOneStop
<https://www.careeronestop.org/LocalHelp/UnemploymentBenefits/unemployment-benefits.aspx>
- DoD Instruction 1400.25, Volume 850
- Electronic SF-8 <http://www.gsa.gov/portal/forms/download/116362>
- Electronic ES-931 in DIUCS : <https://cacdiucs3.cpms.osd.mil/>



Questions?

