Chapter 15
UNEMPLOYMENT INSURANCE PROGRAM

Introduction

A national unemployment insurance program established under the Social Security Act of 1935 provides for temporary and partial replacement of income to individuals who have lost their jobs due to no fault of their own. The Unemployment Insurance Program is a dual program of federal and state statutes. Within federal guidelines and standards, state unemployment laws establish a fund from which weekly unemployment benefits are paid to individuals who qualify. The States’ Unemployment Insurance Funds are financed through a combination of federal and state taxes that are levied upon employers. The goals of this federal-state cooperative program are to:

- Prevent unemployed individuals from experiencing severe financial hardships; and
- To provide time for individuals to find work again in a new, equivalent job.

Unemployment insurance benefits are funded by payroll tax contributions collected from businesses. The amount of contributions required of an employer is based on the amount of wages paid, the amount of contributions to the Trust Fund, and, finally, the employer’s “experience rating.” A business’ experience rating is related to the amount of unemployment benefits received in the past by former employees. If a state has an unemployment insurance law that meets the basic provisions of the federal law, employers can credit their state taxes against the federal tax. For employers to continue to obtain the tax offset allowed in the federal law, the state unemployment insurance system must continue to conform to the general requirements in the federal law.

The federal contributions to the program are used by the state for costs associated with administration of the program, while state contributions fund the cost of the actual unemployment benefits paid to individuals. Taxes paid by businesses under state laws are deposited in the Unemployment Trust Fund of the United States Treasury Department. Separate accounts are maintained for each state and the states may make withdrawals at any time from their account. However, funds withdrawn may be used solely for the purpose of unemployment benefit payment.

Covered Employment

Over the years, several federal laws have added significantly to the number and types of workers protected under the State Unemployment Insurance programs. The list of covered employment below is mandated under federal law. Many states have expended coverage beyond that provided by federal legislation.
Private employers in industry and commerce:

Private employers in industry and commerce are subject to the law if they have one or more individuals employed on one day in each of 20 weeks during the current or preceding year, or if they paid wages of $1500 or more during any calendar quarter in the current or preceding year.

Agricultural employment:

Agricultural workers are covered on farms with a quarterly payroll of at least $20,000 or employing 10 or more employees in 20 weeks of the year.

Domestic employment:

Domestic employees in private households are subject to the Federal Unemployment Tax Act (FUTA) if their employer pays wages of $1000 or more in a calendar quarter.

State and Local Government and Non-Profit employment:

Most employment in state and local government and in non-profit organizations is covered by state law as a condition for securing federal approval of the state law. Under this form of coverage, local government and non-profit employers have the option of making payroll tax contributions as under FUTA or of reimbursing the state for unemployment benefit expenditures actually made.

Federal Civilian Employees and Ex-Service Members of the Armed Forces:

Unemployment benefits for federal civilian employees and ex-service members of the armed forces are paid for through federal funds, but are administered by the states. Benefit amounts are paid according to the provisions of the state law.

Employment Not Covered:

- Self-employed individuals
- Workers employed by their families
- Elected officials
- Legislators
- Members of the judiciary
- State National Guard
- Non-profit organizations that employ fewer than four workers in 20 weeks in the current or preceding calendar year.
Again, the above list represents parameters established by federal law. Many states have extended coverage beyond these federal parameters. It is critical that benefits specialists become familiar with their state’s law and provisions regarding covered employment for the unemployment insurance program.

Within broad federal standards, states are responsible for developing and administering their Unemployment Insurance Law and program. The state Unemployment Insurance (UI) agency is responsible for handling the claims or application for benefits of unemployed workers, deciding in each case whether the individual is entitled to unemployment benefits, and for paying the benefits.

Specifically, states decide on the content of their Unemployment Insurance program in the following areas:

- Payroll tax contribution rates within the specific federal limitations;
- Eligibility requirements that individuals must meet in order to receive the benefit;
- Factors that disqualify a person from receiving unemployment insurance benefits;
- The amount of weekly unemployment benefits to be paid; and
- Benefit duration, or the period of time that an individual may receive the benefit.

### Eligibility for Unemployment Insurance Benefits

Unlike other programs discussed previously, the Unemployment Insurance program is not a means-tested program. Regardless of an individual’s income and resources, unemployment insurance benefits are paid as a matter of right to unemployed workers who have worked a sufficient amount of time and/or who have a sufficient amount of earnings in covered employment. The general requirements for receiving unemployment benefits are as follows:

- The worker must file a claim for unemployment benefits with the state Unemployment Insurance agency.
- The worker must have worked previously on a job covered by the state law.
• The worker must have earned a given amount of wages in covered employment during a specified “base period”. In most States the base period is the first four quarters of the last five completed calendar quarters prior to the time that the individual submits the claim for unemployment benefits. Less than one half individuals who are unemployed receive benefits, primarily due to the fact that many workers do not meet the specific work/earnings requirement.

• The worker must be able to work. In general, unemployment insurance benefits are not payable to workers who are sick or unable to work for any other reason. However, a few states continue to pay the benefits within the legal limits to workers who became ill after they had established their eligibility for the unemployment benefit. Additionally, in five States and Puerto Rico, workers contribute to special disability funds from which disability benefits are paid for non-work connected sickness or accident.

• The individual claiming benefits must register for work at a state employment services office must actively be seeking employment, and must also be available for work and ready and willing to accept a suitable job if one is offered.

• In addition to the above requirements, the individual must also meet the eligibility and qualifying requirements of the state law, and be free from disqualifications.

Disqualifications are conditions or factors that will render individuals ineligible for unemployment benefits. An individual will be disqualified if it is determined that they have:

• Quit their job voluntarily without good cause. In some states, the law reads, “without good cause attributable to the employer” or “connected with the work.”

• Been discharged for misconduct in connection with their work.

• Refused or failed, without good cause, to apply for, or accept, an offer of suitable work. What is “suitable” work is generally decided by the state; however, under federal law no worker may be denied benefits for refusing to accept a new job under substandard labor conditions, or where a labor dispute is involved, or where he or she would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

• Become unemployed because of a work stoppage as the result of a labor dispute, in which he or she is interested or participating, that occurred at the establishment where last employed.
In addition to the disqualifications listed above, many states have identified additional disqualifications. Depending on the state, a disqualification for unemployment benefits may result in a postponement of benefits, a reduction in the amount of benefits, or both. Except in limited situations, however, individuals who are determined disqualified for benefits at a specific point in time will not have their work credits canceled or their benefit rights eliminated entirely.

Unemployment benefits generally replace about one-half of an individual’s after-tax wages lost each week, within minimum and maximum limits. The actual dollar amount of the benefit received is computed according to the unemployment benefit formula established in the state’s law, and takes into consideration the amount of wages received by the person in the past.

In most states, the benefit formula computes a weekly benefit as a fraction of the wages a person received in one or more quarters of the base period. All states have established a maximum benefit amount, and no worker, regardless of their earnings level during the base period, receives more than this maximum. The states vary in terms of whether this maximum benefit amount is a fixed dollar amount or a flexible amount that is adjusted according to the weekly wages of covered employees.

Twelve states and the District of Colombia provide allowances for certain dependants in addition to the weekly benefit check. Across these twelve States, allowances vary considerably in terms of dependants covered and dollar amount paid. All 12 states include an allowance for children under the ages of 16, 18, or 19. Additionally, nine states include a non-working spouse, and three states include other dependent relatives. Generally, the amount of the allowance per dependant is $20 a week, or less.

The number of weeks that an individual may receive Unemployment Insurance benefits ranges from 1 to 26 weeks in a benefit year, depending on the state’s law. The average number of weeks that benefits are received is 15.

Until the individual finds another job, or the benefit period ends, they will receive a weekly payment by reporting at regularly scheduled times to the Unemployment Insurance agency in their state.

A program of federal/state Extended Benefits provides for the payment of additional unemployment benefits for workers who have exhausted their entitlement to regular state benefits during periods of high unemployment. State law determines most eligibility conditions for Extended Benefits. There is, however, a federal requirement that individuals applying for Extended Benefits must have had 20 weeks in full-time employment (or the equivalent in insured wages) and must meet special work requirements.
A worker who has exhausted their regular unemployment benefits and who meets the federal/state requirements may receive Extended Benefits for a maximum of 13 weeks. Overall, individuals are subject to a maximum total of 39 months of regular and Extended Benefits. Extended Benefits are payable at the same rate as the weekly amount under the regular State Program.

**Please note** – Due to variations in formulas used to trigger the Extended Benefit provision, in some states, individuals have access to an additional seven months of Extended Benefits, for an overall period of 20 months.

Individuals must file a claim for Unemployment Insurance Benefits in their state. Claims may be filed in any state, regardless of where the worker was previously employed.

A worker who has been employed in several states, or who moves into a new state and is out of a job, must follow the same application process that other individuals in the state follow. The worker must file a claim and register for a job. He or she should explain about his or her work in other states. The Unemployment Agency will gather the information and forward the claim to the other state(s) in which the individual may be qualified for benefits, or may instead provide the individual applying with contact information needed to file the claim directly with the other state(s). Any benefits to which the worker may be entitled will be paid by check sent directly for the state that owes them. Wages, which have been earned in two or more states, will be combined.

In most states, a waiting period of one week of total unemployment is required before benefits can begin. Three states pay benefits retroactively for the waiting period if unemployment lasts a certain period or if the individual returns to work within a specified period. The Office of Workforce Security map with links to individual state unemployment offices and information is provided at http://workforcesecurity.doleta.gov/map.asp.

The worker and their employer may appeal any determination on unemployment benefit claims. If a worker believes that the determination on his or her claim is wrong, an appeal may be filed in the office where the claim was filed within 5 to 30 days after the worker is notified of the decision. An employer may appeal if he or she does not agree with a determination on an employee’s claim.

Individuals receiving SSDI will experience no impact on their cash benefit eligibility as a result of receiving an unemployment insurance benefit. Of course, it will be critical that the loss of earnings be reported to the Social Security field office. This is particularly important for individuals in their extended period of eligibility to ensure that cash benefits are paid as a result of earnings falling below the SGA level.
Individuals receiving SSI will experience an impact on their cash benefit payment status as a result of receiving unemployment insurance benefits in any given month. Unemployment benefits for purposes of the SSI program are considered to be unearned income. As a result, while the individual will receive a partial replacement of wages through their unemployment benefit, they will simultaneously experience a reduction in their monthly SSI cash benefit. The SSI cash benefit will be reduced in the amount of the monthly unemployment insurance benefits received, minus the $20 dollar general exclusion, assuming that the general exclusion has not been applied in the month to any other type of unearned income.

It is also important to keep in mind that the potential exists for receipt of the unemployment benefit to result in a loss of Medicaid coverage for the SSI recipient. This will only occur in situations where the amount of the unemployment benefit (unearned income) in a specific month is sufficient to place the individual over their break-even point. The break even point is the point at which an individual is no longer eligible for an SSI cash benefit, but is considered for eligibility for continued Medicaid under 1619b. A person will not meet the criteria for 1619b if the reason their SSI cash benefit ceased is due to unearned income placing them above their break-even point. The likelihood that Medicaid eligibility will be affected will be greater for individuals who are already receiving other types of unearned income, such as SSDI.

Another situation where receipt of unemployment benefits will impact a person’s SSI cash benefits is in situations where deeming is taking place. If an SSI recipient is subject to deeming and the ineligible parent or spouse whose income is deemed becomes eligible for unemployment benefits, a portion of the unemployment benefits received will be deemed as available to the SSI recipient.

NAFTA, the North American Free Agreement, provides assistance to workers who have lost their job because of trade with Mexico and Canada. The benefits of this program are similar to TAA, Trade Adjustment Assistance, which provides assistance to workers who have been totally or partially separated from their jobs because of increased foreign imports.

The two programs (NAFTA and TAA) are discussed together because the benefits are similar. Both programs provide weekly cash benefits called Trade Readjustment Allowances (TRA) to eligible applicants as well as training, job search and relocation allowances, and other reemployment services such as employment registration, employment counseling, vocational testing, job placement, or other supportive services.
NAFTA and TAA Benefits include:

1. Help finding a job through the state employment office.
2. Payment for costs of approved training. Sometimes this may include transportation and basic living expenses.
3. Help paying the costs of finding a job outside of the area (up to $800).
4. Help paying the costs associated with relocating for another job (up to 90% of allowable moving expenses and a lump sum of $800).
5. Cash payments for up to 26 additional weeks after regular Unemployment Insurance payments have been exhausted for eligible applicants.

Filing a NAFTA/TAA Application:

Three or more workers or their representatives may file a petition for NAFTA or TAA. NAFTA petitions are filed with the Governor of the state in which the workers’ firm or its’ subdivision are located. TAA petitions are sent to the Office of Trade Adjustment Assistance in the US Department of Labor. To file either a NAFTA or TAA petition, applicants must first go to the state employment office and ask for the NAFTA/TAA counselor.

When the petition is certified, an “impact date” will be established and a group of affected workers will be identified. To be eligible for benefits, affected workers must have been laid off or put on a reduced schedule on or after the “impact date.” If the petition is terminated or denied the affected workers may ask for an administrative reconsideration by the US Department of Labor, Office of Trade Adjustment Assistance within 30 days after the publication of the denial or termination in the Federal Register. The state employment office will provide additional information about the reconsideration process.

To qualify for all phases of the NAFTA/TAA program, applicants must file for benefits as soon as a petition affecting workers in the company is certified. There are different time limits for each of the program components. Eligibility for weekly cash payment (TRA) is very specific and may involve work search and/or training participation requirements.