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UCFE/UCX FEDERAL LAW 5 U.S.C. CHAPTER 85

SUBCHAPTER I - Employees Generally

8501. DEFINITIONS

For the purpose of this subchapter -

(1) "Federal service" means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of this chapter applies) performed

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(C) by members of the Foreign Service for whom payments are provided under Section 609(b)(1) of the Foreign Service Act of 1980;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Office of Personnel Management from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of \$12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(H) by a student-employee as defined by section 5351 of this title;

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(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;

(K) as a member of a State, county or community committee under the Agriculture Stabilization and Conservation Service or of any other board, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel -

and (i) owned by or bareboat chartered to the United States;

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service;

(3) "Federal employee" means an individual who has performed Federal service;

(4) "compensation" means cash benefits payable to an individual with respect to dependents;

(5) "benefit year" means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agreement under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;

(6) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

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(7) "United States", when used in a geographical sense, means the States; and

(8) "Base Period" Means the base period as defined by the applicable State unemployment compensation law for the benefit year.

8502. COMPENSATION UNDER STATE AGREEMENT

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, which the State agency shall -

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

(b) The agreement shall provide that compensation will be paid the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

(c) (Repealed.)

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

8503. COMPENSATION ABSENT STATE AGREEMENT

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him

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in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.

(b) A Federal employee whose claim for compensation under subsection (a) of this section is denied, is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

8504. ASSIGNMENT OF FEDERAL SERVICES AND WAGES

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his claim for compensation for the benefit year. However -

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; and

(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim.

8505. PAYMENTS TO STATES

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.

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(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(e) An agreement may -

(1) require each State officer or employee who certifies payments or disburses funds under the agreement, or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration of the State unemployment law.

8506. DISSEMINATION OF INFORMATION

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may

be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning -

- (1) whether or not the Federal employee has performed Federal service;
- (2) the periods of Federal service;
- (3) the amount of Federal wages; and
- (4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the secretary. The regulations shall include provisions for correction by the employing agency of errors and omissions. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this Chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he considers necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

8507. FALSE STATEMENT AND MISREPRESENTATION

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual -

(1) Knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled;

the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the

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amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under section 8502(d) and 8503(b) of this title.

(b) An amount repaid under subsection (a) of this section shall be -

(1) deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

8508. REGULATIONS

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this chapter. The Secretary, insofar as practicable, shall consult with representatives of the State Unemployment Compensation agencies before prescribing rules or regulations which may affect the performance by the State agencies of functions under agreements under this subchapter.

8509. FEDERAL EMPLOYEES COMPENSATION ACCOUNT

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of -

(1) funds appropriated to or transferred thereto,
and

(2) amounts deposited therein pursuant to
subsection (c).

(b) Moneys in the Account shall be available only for the purposes of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

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(1) Each employing agency shall deposit into the Account, amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by an employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981, the Secretary of labor shall estimate -

(1) the amount of expenditures which will be made from the Account during such year, and

(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary -

(3) to meet the expenditures described in paragraph (1), and

(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be

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sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary shall transfer from the Account to the general fund of the Treasury, an amount equal to such excess.

(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.

(h) For purposes of this section, the term, "Federal Service" includes Federal service as defined in section 8521(a).

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SUBCHAPTER II - EX-SERVICEMEMBERS

* 8521. DEFINITIONS: APPLICATION

(a) For the purpose of this subchapter:

(1) "Federal service" means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the Armed Forces or the "Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service -

(A) The individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B) (i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service -

(I) for the convenience of the Government under an early release program,

(II) because of medical disqualification, pregnancy, parenthood or any service-incurred injury or disability,

(III) because of hardship, or

(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more.

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his/her latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary shall issue, from time to time, after consultation with the Secretary of Defense, schedules

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specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subchapter (A) of this section.

8522. ASSIGNMENT OF FEDERAL SERVICE AND WAGES

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State in which the claimant first files a claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as an assignment under section 8504 of this title for the purpose of this subchapter.

8523. DISSEMINATION OF INFORMATION

(a) When designated by the Secretary of Labor, an agency of the United States shall make available to the appropriate State agency or to the Secretary, as the case may be, such information, including findings in the form and manner prescribed by regulations of the Secretary, as the Secretary considers practicable and necessary for the determination of entitlement of an individual to compensation under this subchapter.

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(b) Subject to correction of errors and omissions as prescribed by regulations of the Secretary, the following are final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title:

(1) Findings by an agency of the United States made in accordance with subsection (a) of this section with respect to:

(A) whether or not an individual has met any condition specified by Section 8521(a)(1) of this title;

(B) the periods of Federal service; and

(C) the pay grade of the individual at the time of his latest discharge or release from Federal service.

(2) The schedules of pay and allowances prescribed by the Secretary under section 8521(a)(2) of this title.

8524. ACCRUED LEAVE (Repealed).

8525. EFFECT ON OTHER STATUTES

(a) (Repealed).

(b) An individual is not entitled to compensation under this subchapter for any period with respect to which he receives:

(1) a subsistence allowance under chapter 31 of title 38 or under part VIII of Veterans Regulation Numbered 1(a); or

(2) an educational assistance allowance under chapter 35 of title 38.