

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

1. Initial Claim - New. A new UCX claim is a request for determination of eligibility for unemployment compensation for ex-servicemembers. This claim may be a UCX only claim based on Federal military service and wages, or a joint claim based on a combination of Federal military with Federal civilian, or State-covered employment and wages. Under the UCX equal treatment requirements at 20 CFR 614.9(a)(1), the provisions of the applicable State law governing claims filing apply to UCX claims, except where the result would be inconsistent with the provisions of Federal law, 20 CFR Part 614 or the UCX operating procedures issued by the U.S. Department of Labor (the Department).

It is important to note that the UCX equal treatment requirements at 20 CFR 614.13 also provide that claimants' rights to UCX shall be protected from waiver in the same manner and to the same extent as the rights of persons to State UI are protected under the applicable State law. This equal treatment includes protection against discrimination and obstruction in regard to seeking, applying for, and receiving any right to UCX.

A claimant who qualifies for UCX benefits in one State and also separately eligible for UI, UCFE, etc. in another State, may elect to file the UCX claim or to file against the separate eligibility under the other State's law or file a combined-wage claim. The first UCX claim filed after a period of Federal military service will result in Federal military service and wages being assigned to the State in which the claimant is physically located at the time the claim is filed if a benefit year is established. However, Federal military service and wages may be transferred for use on a combined-wage claim.

In determining entitlement, if the ex-servicemember also worked for a military service as a civilian, a Form ES-931 will be used to request for UCFE wage and separation information.

a. Using the Proper Copy of the DD FORM 214 to Establish Eligibility. The DD Form 214 is a multi-copy form with eight (8) copies to a set. The State agency should use Copy No. 4 of DD Form 214 to complete the State forms or Form ETA 841 (ES-970) and issue a UCX determination. If the claimant states that he/she has lost or was not issued Copy No. 4 of DD Form 214, he/she should be asked to provide a copy of Copy No. 1 as evidence of potential UCX eligibility.

Copies Nos. 1 and 4, are issued to all separatees. However, Copy No. 1 alone may not be used as the basis of a UCX determination.

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

Copy No. 4, provides the information necessary to a determination of UCX entitlement/-eligibility.

The State agency should request and utilize Copy No. 4 whenever possible. However, the State agency may use a certified copy of Copy No. 2, 3, 6, 7, or 8, from the claimant, or a Copy No. 5 from the LCCC, as an official copy for making UCX eligibility determinations. However, in all cases, the requirements and procedures for verification of the DD Form 214 information with the LCCC are the same as if using Copy No. 4.

If possible, the State agency should base a UCX determination on a partially completed DD Form 214 supplemented by credible claimant statements certified on the Form ETA 841 (Form ES-970) if the missing information is not potentially disqualifying. A Form ETA 843 requesting military verification of the information is needed. However, the State agency should make a tentative UCX monetary determination and issue benefit payments, as appropriate, while awaiting a reply.

NOTE: If an ex-servicemember presents an original Copy No. 2, 3, 6, 7, or 8, the State agency should immediately use the Form ETA 843 to verify that the issuance of the "original" Copy, because the military normally issues a certified copy of one of these copies rather than an original.

If the ex-servicemember cannot present any of the appropriate copies of DD Forms 214, he/she should be informed that it is his/her responsibility to obtain a legible and complete Copy No. 4 or certified Copy 2, 3, 6, 7, or 8 of DD Form 214 to support a UCX determination. However, the State should advise the claimant that it will submit a inquiry to the LCCC. Entitlement and eligibility for UCX benefits will be based on Copy 5 of DD Form 214 made available by LCCC.

The claimant should also be advised of the preliminary use of military "orders to report" and "orders of release"; "orders to report" containing an endorsement of release. However, if the LCCC has no record of a claimant's service and is unable to provide Copy 5, the State agency should help the claimant obtain a DD Form 214 by using the Form ETA 843.

The State agency should encourage the claimant to continue to look for the necessary form(s) and advise the claimant that the UCX determination will be delayed until the necessary information is available. The claimant should be encourage to continue to

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

file necessary claims, while the determination is pending, in order to protect benefit rights.

If an ex-servicemember reports that the DD Form 214 was lost or misplaced, in addition to using the Form ETA 843 to request a copy, the claimant should be advised that he/she may be able to obtain a duplicate DD Form 214 from:

(1) The Department of Veterans Affairs Regional Office, if the he/she filed a claim for disability benefits before separation (in any case, VA counselors will help the claimant in this matter); and

(2) The county clerk or the local Bureau of Vital Statistics, if it was registered.

2. Determination of Monetary Entitlement. Any UCX wages used as the basis of a monetary determination must meet the criteria for Federal military service under the Act, as outlined in Chapter II. By prior ruling, days of excess leave are ignored when determining Federal military wages. Although, in some instances, the number of days or the dates of excess leave may be shown in Item 18, "Remarks, of DD Form 214, neither days nor dates of excess leave will be recorded on Form ETA 841 (Form ES-970).

If entries on the Form ETA 841 show UCX service and wages in the State's base period, such service and wages will be included in the person's monetary determination to the same extent that the applicable State's law requires the use of all base period employment and wages with respect to UI claims. All such employment and wages must be used even if the inclusion causes ineligibility or reduces the duration and/or the weekly amount of benefits to which the claimant would otherwise be entitled.

a. Determining Rate of Pay and Total Base-Period Wages. The monthly, weekly, and daily rates of pay for each grade (e.g., E-1, E-2) is determined from the Federal Schedule of Remuneration in effect at the time the ex-servicemember files the "first claim" as defined by 20 CFR 614. The pay grade held at the time of separation from the most recent period of Federal military service must be used to determine base period and lag period wages, whether or not the claimant served in more than one grade during or following the base period of the claim. For example, if the claimant's pay grade was E-2 during the period of service in the State's base period and the claimant was promoted to pay grade E-3 during the State's lag period, and separated at the

**ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)**

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

higher grade, the claimant's rate of remuneration for pay grade E-3 is used in determining monetary entitlement even though the E-3 pay grade was not held during the State's base period.

Military wages are paid based on 30 days in a calendar month regardless of the number of actual days in the month. Thus military service which begins or ends on various dates of a 31-day or 29-day month must be treated for base-period wages as follows:

(1) Service beginning in 31-day month	<u>Entry Date</u>	<u>Service Credited for Month</u>
	August 16	15 days
	August 30	1 day
	August 31	None
(2) Service beginning in 28-day month	<u>Entry Date</u>	<u>Service Credited for Month</u>
	February 1	1 Month (30 days)
	February 16	15 days
	February 27	4 days
	February 28	3 days
(3) Service ending in 31-day month	<u>Separation Date</u>	<u>Service Credited for Month</u>
	August 15	15 days
	August 30	1 Month (30 days)
	August 31	1 Month (30 days)
(4) Service ending in 28-day month	<u>Separation Date</u>	<u>Service Credited for Month</u>
	February 1	1 day
	February 15	15 days
	February 27	27 days
	February 28	1 month (30 days)

Accordingly, to determine wages for assignment and use in the monetary determination, months, weeks, and days of creditable Federal military service, as shown in item 26 of Form ETA 841, are multiplied by the appropriate rates of remuneration as follows: the monthly rate of remuneration will be used for each full calendar month of service regardless of the actual number of days in the month; the weekly rate for 7 days is calculated at 7/30th of the monthly rate; and, the daily rate is 1/30th of the

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

monthly rate shown in the Federal Schedule of Remuneration. The daily rate applies to all periods of less than 7 days.

b. Allocation of Military Accrued Leave. Branches of the Armed Forces report the number of days of military accrued leave, for which a lump-sum payment was made, on DD Form 214, on other military documents, or in replies to State agency requests for such information. However, this leave is not considered allocated to any particular period. If this information is not on DD Form 214 (or a corresponding DD Form 215), and is necessary under the applicable State UI law for proper processing of a UCX claim, State agencies should use an ETA 843 to request the information. Days of military accrued leave (or Federal military wages related to such days) will be allocated by the State agency in the same manner as for State UI.

In general, lump-sum payment for days of military accrued leave made to a servicemember in connection with the separation from active U.S. military service must be treated the same as a lump-sum payment for accrued leave (or equivalent) is treated under the applicable State unemployment insurance law when made by an employer to a worker in connection with separation from private employment. Except that, the Federal Schedule of Remuneration must be used to compute the amount of the lump-sum payment based on the number of days of military accrued leave. The actual amount of the lump-sum payment received by the servicemember for accrued leave is disregarded.

Additionally, the days of accrued leave for which a lump-sum is paid are not part of an active service period and must not be used in determining if a claimant has the 90 continuous days of Federal military service required of members of the National Guard and Reserve to qualify for UCX benefits or the full term of active service required to qualify under 5 U.S.C. 8521(a)(1)-(B)(ii)(IV).

Additionally, the days of accrued leave for which a lump-sum is paid are not part of an active service period and must not be used in determining if a claimant has completed his/her first full term of service under honorable conditions, separated for a specified reason(s) prior to completing his/her initial term of service and were separated under honorable conditions required to qualify under 5 U.S.C. 8521(a)(1)(B)(ii)(IV).

If the State uses "weeks" or "credit weeks" in determining entitlement, no more than 13 such weeks per calendar quarter of Federal military service may be allocated or used. Additionally,

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

States will not allocate more than 7 days of Federal military service (or military accrued leave), to any one week.

When the State law allocates lump-sum leave payment to the last day of active military service, the amount of Federal military wages based on military accrued leave or combined active duty and military accrued leave, allocated to a calendar quarter may exceed the monthly rate under the Federal Schedule of Remuneration. Similarly, the total wages for the combined amount allocated to a week (or equivalent), may exceed seven times the derived daily rate (or the derived weekly rate) under the Federal Schedule of Remuneration.

If the claimant disagrees with the amount of accrued leave shown on the DD Form 214/215, the State agency should review the claimant's copy of the final military pay voucher issued at the time of separation from active military service. This form normally shows military accrued leave data. If the voucher shows the necessary information, the State agency may accept such documentary evidence as final and retain a copy in its files. The use of information on a military pay voucher in lieu of DD Forms 214/215 is an exception and applies only to information pertaining to a lump-sum payment for military accrued leave.

(1) Designated Period of Allocation. If under State law, the lump-sum payment for accrued leave is allocated to the date on which such payment was made and the claimant's DD Form 214 does not contain the payment date, and the claimant gives no other documentary evidence (e.g., final military pay voucher) showing such date, the State agency may consider that the payment date is the same as the date of separation from military service. The State agency does not need to verify the lump-sum payment date with the branch of the Armed Forces unless conflicting information is presented (e.g., the claimant states that the payment was made and the DD Form 214 shows that the payment is pending or vice versa).

If, under State law, the employer may designate the period to which a lump-sum payment to a worker for days of accrued leave will be allocated, the United States, as the employer for ex-servicemembers, considers that Federal military wages attributable to a lump-sum payment for military accrued leave must be allocated to the date of separation, as shown on DD Form 214.

If under State law, a lump-sum paid for days of accrued leave, in connection with a separation from employment, would be allocated to a period after the date of separation, and result in a denial or reduction of benefits for the period to which allocated, the

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

lump-sum payment for military accrued leave should be allocated in the same manner and benefits to the ex-servicemember denied or reduced accordingly.

(2) Examples of Allocation of Military Accrued Leave.

Claim effective April 1, 1994. Using Schedule of Remuneration as in effect on April 1, 1994.

Base period (first 4 of last 5 completed quarters)	January 1, 1993 - December 31, 1993
Number of days of military accrued leave reported on DD Form 214	20
Active U.S. military service period which qualifies as Federal military service-	
(a) "Date entered active duty this period"	March 1, 1990
(b) Date of separation:	March 18, 1993
(c) Pay Grade:	E-4

Example 1

Under State law, the military accrued leave (for which lump-sum payment is received) is allocated to the 20 day period (including Saturdays, Sundays and holidays) immediately following the date of separation:

Military Service and Wages credited during base period:

January 1 - December 31 (active duty);
(Each quarter = 3 X (monthly rate)

Military Service and wages during lag period:

First Quarter -- January 1 - March 18, 1994
= 2 months X (monthly rate) + 18 days X (daily rate)

Plus

March 19 - March 30, 1994
= 11 allocated days of accrued leave X (daily rate)

Second Quarter -- April 1 - April 9, 1994
= 9 allocated days of accrued leave X (daily rate)

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

(Period of active duty service and wages plus accrued leave wage amount in lag-period are to be posted to wage file for future use.)

EXAMPLE 2

Under State law, the military accrued leave (for which lump-sum payment is received) is allocated to the date on which separation occurred or the lump-sum was paid.

For the January - March 1994 quarter, the Service and Wages credited is:

January 1 - March 18 (active duty; no days lost):	
	2 months, 18 days
Equivalent Federal military wages (active duty period):	\$
Plus 20 X (daily rate) for accrued leave	\$
Total Military Service and Wages	\$

NOTE: In this example, it is assumed that the lump-sum payment date and the separation date are the same. Under this "when paid" allocation, the total military wages for the quarter will exceed the quarterly wage total (3 X monthly rate) calculated for other quarters.

c. Days Lost. For base period wages computation purposes, "days lost" are treated as days in which there were no Federal military service or wages, even though some pay or allowances were paid for such days. Calendar dates of days lost are not used in computing credible Federal military service. However, days lost are not deducted in determining period of continuous Federal military service.

If the claimant disagrees with the "days lost" information on DD Form(s) 214/215, the State agency should issue a monetary determination based on the information available from the DD Form(s) 214/215 and forward an ETA 843 to the branch of service to verify the information. When the DD Form(s) 214/215 does not indicate the actual dates of the "days lost", the State agency should issue a monetary determination based on the claimant's certification of dates of "days lost" on the ETA 841 and forward an ETA 843 to the branch of service to verify the information. When a reply is received, the State agency should issue a monetary redetermination and take other actions, as appropriate.*

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

In computing military wages for a period during which "days lost" occurred, the portion of the month preceding and following the "days lost" period will be computed the same as the ending and beginning of a period of service.

Example:

Claim effective October 17, 1993

Base period (first 4 of last 5 completed calendar quarters): July 1, 1992 - June 30, 1993

Service entry date: October 19, 1990

Separation date: October 16, 1993

Dates of days lost: Feb. 27 - March 2, 1993
Aug. 31 - Sept. 8, 1993

Base period wage credits: July - September 1992
(3 X (monthly rate))
October - December 1992
(3 X (monthly rate))
January - March 1993
(Jan. = 1 X (monthly))
(Feb. = 26 X (daily rate))
(Mar. = 28 X (daily rate))

Lag-period wages credits: April - June 1993
(3 X (monthly rate))
July - September 1993
(2 X monthly rate)
+
(22 X (daily rate))
October - December 1993
16 X (daily rate)

ET HANDBOOK NO. 384
UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS (UCX)

CHAPTER IV - MONETARY AND NONMONETARY DETERMINATIONS

d. Joint Monetary Determinations - UCX-UCFE/UI. A joint monetary determination must be identified as UCX-UI, UCX-UCFE or UCX-UCFE-UI, as appropriate. Federal civilian employment and wages, military service and wages and State covered employment and wages must be shown separately on a joint monetary determination. If a claimant worked in Federal civilian employment and was also in active military service during the base period of the claim, the civilian employment and wages should be shown as U.S. civilian and the military service as U.S. military, or other appropriate designation which identifies the kinds of service separately.

To the extent that State law requires the use of all base period employment in the monetary determination, any Federal civilian or military service and wages assignable to the base period must be used in the monetary determination.

When Federal UCX (UCFE) wages are included in the monetary determination, the benefit costs chargeable to the Federal Government will represent the same ratio to benefits paid as the Federal wages represent to the total of all wages used in the determination. When both Federal civilian and military service are used in the determination, the charges must be separately identified and must represent separately the same ratio to benefits paid as the UCX or UCFE wages represent to the total wages used in the determination.

When a monetary determination is issued under the Interstate Arrangement for Combining Employment and Wages (Combined Wage Program (CWC), the paying State will make a determination of the ratio of the Federal portion of the cost of UCX (UCFE) as stated above. State agencies should not use the Form IB-6, "Statement of Benefits Paid to Combined Wage Claimants" to request reimbursement of Federal benefit cost from the transferring State. The paying State will charge the Federal Government directly for its benefit costs based on the use of Federal employment and ages in the determination.

(1) **Examples of Calculation of Cost.** The following calculations are based on a benefit payment of \$100. The benefit

*Revised January 1996

