

**Combined-Wage Claims
Questions and Answers on the New Definition of Paying State**

A. New Definition of Paying State

1. Question: How does the new definition of paying state change the way an individual files a CWC?

Answer: Prior to the new amendment, which becomes effective on January 6, 2009, the paying state is the state in which the individual files the CWC (usually the state where the individual is physically located at the time of filing a CWC), if s/he qualifies for benefits under the UC law of that state on the basis of combined employment and wages. The current definition also identifies the paying state when the individual does not qualify for unemployment benefits under the UC law of the state in which s/he files the CWC or when the individual applies for a CWC from Canada.

Effective January 6, 2009, the new definition of paying state for a CWC is the state against which the individual elects to file a CWC, provided the individual has employment and wages in that state's base period(s), and the individual qualifies for UC under the law of that state using combined employment and wages. (See revised 20 CFR 616.6(e).)

2. Question: What is the earliest possible effective date of an initial CWC based on the new rule?

Answer: The earliest possible effective date of an initial CWC based on the new rule is Tuesday, January 6, 2009, in states where the effective date of an initial claim may begin on a Tuesday. In most states, where weeks of unemployment begin on Sunday, the earliest effective date of a CWC is Sunday, January 11, 2009. This means that individuals filing a CWC in these states during the week beginning Sunday, January 4, 2009, will be subject to the regulations prior to the amendment. Individuals filing a CWC during the week beginning Sunday, January 11, 2009, and thereafter, will be subject to the amended rule that is effective January 6, 2009.

B. States' Responsibilities Regarding the New Definition of Paying State

1. Question: When an individual contacts a state about filing a CWC, what are the state's responsibilities in advising the individual of his/her options?

Answer: The responsibility of the state varies depending on the circumstances of the individual.

If the individual has employment and wages in the state, the state must advise the individual of the state's qualifying requirements and his/her potential eligibility for benefits (if any) under its law. The individual must also be told that s/he has the option to file in any other state(s) where s/he has employment and wages. The state must advise the individual that there are differences in weekly benefit amounts and other qualifying requirements (i.e., state laws vary). If the individual wishes to explore options with any other state(s), the state must provide information about how to contact any such state(s).

If the individual has no employment and wages in the state, the state must provide general information about the CWC program and information about how to contact the state(s) where the individual has employment and wages. (See Attachment 2.)

2. Question: Does the new definition of paying state require states to follow any specific order in determining which state is the paying state for a CWC claim?

Answer: No. Individuals may establish a CWC in any state in which they have employment and wages in the base period(s) of the state and qualify based on combining their wages. This includes individuals residing in Canada who have performed work in the United States.

3. Question: How will individuals determine the appropriate state to file a CWC?

Answer: The individual is responsible for deciding the state against which to file a CWC. States receiving inquiries from individuals potentially eligible to apply for CWCs must assist such individuals by providing general information about the CWC program advising that states' programs/entitlements vary and contact information for the state(s) where the individual worked.

States may refer individuals to America's Service Locator, which is located at: <http://www.servicelocator.org/OWSLinks.asp> and/or to specific states' Web sites.

4. Question: How does the state inform the individual of other filing options when a state determines that an individual is monetarily ineligible for a CWC after all wage transfers are complete?

Answer: Under the new rule, a state's written determination of monetary ineligibility under a CWC must contain information indicating that the individual may file a CWC claim in another state where the individual has employment and wages during the state's base period(s). (See revised 20 CFR 617.7(f).) States will meet this requirement by including a statement such as the following:

You may be eligible for benefits on the basis of combining your employment and wages in another state where you have worked. To file a claim, you will need to contact the other state(s) where you worked.

5. Question: Prior to the new amendment, there were cases where the paying state did not know if wages from other states were available for transfer. Does the new definition affect the way states handle these cases?

Answer: The new amendment does not change current procedures in this regard. When a state is a potential paying state, it should assist the individual in filing a CWC when the individual wishes to pursue a claim. As in the past, there will be some instances where individuals' wages will not be available for use on a CWC because of administrative complications. States will need to address these cases on an individual basis. In some cases, a claim may need to be withdrawn and a backdated claim filed with another state. States should follow existing backdating policies and procedures.

6. Question: Does the new definition affect the way Federal (civilian and/or military) wages are assigned?

Answer: The rules about the assignment of Federal wages have not changed.

C. CWC Filing Options

1. Question: When an individual has employment and wages in more than one state, must the individual file a CWC?

Answer: No, filing a CWC remains voluntary on the part of the individual. (Refer to 20 CFR 616.7(a) and (c).)

2. Question: Under the new definition may an individual establish a CWC under the law of the state where s/he resides?

Answer: Yes, but only if the individual has sufficient base period wages to qualify for benefits in the state of residence. An individual's residence is not relevant in determining the paying state. (Refer to 20 CFR 616.6(e).)

3. Question: The individual is eligible in State A for a regular intrastate claim using regular base period wages. State A also has an alternative base period, but it is available only if the individual is monetarily ineligible under the state's regular base period. The individual could also establish eligibility in State B, where s/he has lag quarter wages, which permits the use of the alternative base period at the individual's option. What are this individual's filing options?

Answer: The individual has the option to establish: 1) a regular intrastate UC claim in State A, or 2) an interstate CWC against State B.

4. Question: Under the new definition, is an individual who has elected to withdraw a CWC filed in State A able to establish a CWC in State B in which s/he also has employment and wages?

Answer: Yes, provided the individual is otherwise eligible, does not have an active claim with available benefits in State A, and has covered employment and/or wages in State B. The fact that s/he has withdrawn a prior CWC from State A has no effect on whether s/he may establish a CWC in State B (or any other state in which s/he had employment and wages).

5. Question: What impact does the new rule have on the states' responsibilities for providing claim filing options to individuals potentially eligible to file CWCs?

Answer: A state will have different responsibilities with respect to an individual potentially eligible for a CWC depending on whether it is the CWC "paying state," "potential paying state," "agent state," or "inquiry state" as defined below:

- A "paying state" is a single state against which the individual files a CWC, if the individual has employment and wages in that state's base period(s) and the individual qualifies for UC under that state's law using combined employment and wages.
- A "potential paying state" is a state in which an individual might establish a CWC.

- An “agent state” is the state that takes the interstate CWC on behalf of the paying state because the paying state does not accept interstate claims, including any interstate CWC, by phone/Internet.
- An “inquiry state” is the state contacted by an individual who is potentially eligible for a CWC, but who has no employment and wages in that state.

There are generally three levels of responsibility states will have with respect to providing filing options; these include inquiry filing options, detailed filing options and other filing options. (*See Attachment 2.*)