

**APPENDIX B**

**EMPLOYMENT SECURITY MANUAL  
PART V SECTION 6013**

## Appendix B

### Claim Determination Standards Designed to Meet Department of Labor Criteria

For ease of reference, the following is an excerpt from the **Employment Security Manual (ESM), Part 5, Section 6013**:

A. **Investigation of claims**. *The state agency is required to obtain promptly and prior to a determination of an individual's right to benefits, such facts pertaining thereto as will be sufficient reasonably to insure the payment of benefits when due.*

*This requirement embraces five separate elements:*

1. *It is the responsibility of the agency to take the initiative in the discovery of information. This responsibility cannot be passed on to the claimant or the employer. In addition to the agency's own records, this information may be obtained from the worker, the employer, or other sources. If the information obtained in the first instance discloses no essential disagreement and provides a sufficient basis for a fair determination, no further investigation necessary. If the information obtained from other sources differs essentially from that furnished by the claimant, the agency, in order to meet its responsibility, is required to inform the claimant of such information from other sources and to afford the claimant an opportunity to furnish any further facts he may have.*

2. *Evidentiary facts must be obtained as distinguished from ultimate facts or conclusions. That a worker was discharged for misconduct is an ultimate fact or conclusion; that he destroyed a machine upon which he was working is a primary or evidentiary fact, and the sort of fact that the requirement refers to.*

3. *The information obtained must be sufficient reasonably to insure the payment of benefits when due. In general, the investigation made by the agency must be complete enough to provide information upon which the agency may act with reasonable assurance that its decision is consistent with unemployment compensation law. On the other hand, the investigation should not be so exhaustive and time-consuming as unduly to delay the payment of benefits and to result in excessive costs.*

4. *Information must be obtained promptly so that the payment of benefits is not unduly delayed.*

5. *If the State agency requires any particular evidence from the worker, it must give him a reasonable opportunity to obtain such evidence.*

**B. Recording of facts.** *The agency must keep a written record of the facts considered in reaching its determinations.*

**C. Determination notices**

1. *The agency must give each claimant a written notice of:*

a. *Any monetary determination with respect to his benefit year;*

b. *Any determination with respect to purging a disqualification if, under the State law, a condition or qualification must be satisfied with respect to each week of disqualification; but in lieu of giving written notice of each determination for each week in which it is determined that the claimant has met the requirements for purging, the agency may inform the claimant that he has purged the disqualification for a week by notation on his applicant identification card or otherwise in writing.*

c. *Any other determination which adversely affects<sup>2</sup> his rights to benefits, except that written notice of determination need not to be given with respect to:*

*(1) A week in a benefit year for which the claimant's weekly benefit amount is reduced in whole or in part of earnings if, the first time in the benefit year that there is such a reduction, he is required to be furnished a booklet or leaflet containing the information set forth below in paragraph 2 f (1). However, a written notice of determination is required if: (a) there is a dispute concerning the reduction with respect to any week (e.g., as to the amount computed as the appropriate reduction, etc.); or (b) there is a change in the State law (or in the application thereof) affecting the reduction; or*

*(2) Any week in a benefit year subsequent to the first week in such benefit year in which benefits were denied, or reduced in whole or in part for reasons other than earnings, if denial or reduction for such subsequent week is based on the same reason and the same facts as for the first week, and if written notice of determination is required to be given to the claimant*

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<sup>2</sup>A determination "adversely affects" claimant's rights to benefits if it (1) results in a denial to him of benefits (including a cancellation of benefits or wage credits or any reduction in whole or in part below the weekly or maximum amount established by his monetary determination) for any week or other period; or (2) denies credit for a waiting week; or (3) applies any disqualification or penalty; or (4) determines that he has not satisfied a condition of eligibility, requalification for benefits or purging a disqualification; or (5) determines that an overpayment has been made or orders a recoupment of any sum paid to him; or (6) applies a previously determined overpayment, penalty, or order for repayment or recoupment; or (7) in other ways denies claimant a right to benefits under the State law.

*with respect to such first week, and with such notice of determination, he is required to be given a booklet or pamphlet containing the information set forth below in paragraphs 2 f (2) and 2 h. However, a written notice of determination is required if: (a) there is a dispute concerning the denial or reduction of benefits with respect to such week; or (b) there is a change in the State law (or in the application thereof) affecting the denial or reduction; or (c) there is a change in the amount of the reduction except as to the balance covered by the last reduction in a series of reductions.*

**Note:** This procedure may be applied to determinations made with respect to any subsequent weeks for the same reason and on the basis of the same facts: (a) that claimant is unable to work, unavailable for work, or is disqualified under the labor dispute provision; and (b) reducing claimant's weekly benefit amount because of income other than earnings or offset by reason of overpayment.

*2. The agency must include in written notices of determinations furnished to claimants sufficient information to enable them to understand the determinations, the reasons therefore, and their rights to protest, request reconsideration, or appeal. The written notice of monetary determination must contain the information specified in the following items (except h) unless an item is specifically not applicable. A written notice of any other determination must contain the information specified in as many of the following items as are necessary to enable the claimant to understand the determination and to inform him of his appeal rights. Information specifically applicable to the individual claimant must be contained in the written notice of determination. Information of general application such as (but not limited to) the explanation of benefits for partial unemployment, information as to the manner and place of taking an appeal, extension of the appeal period, and where to obtain information and assistance may be contained in a booklet or leaflet which is given the claimant with his monetary determination.*

a. **Base period wages.** *The statement concerning base-period wages must be in sufficient detail to show the basis of computation of eligibility and weekly and maximum benefit amounts. (If maximum benefits are allowed, it may not be necessary to show details of earnings.)*

b. **Employer name.** *The name of the employer who reported the wages is necessary so that the worker may check the wage transcript and know whether it's correct. If the worker is given only the employer*

number, he may not be able to check the accuracy of the wage transcript.

c. **Explanation of benefit formula - - weekly and maximum benefit amounts.** Sufficient information must be given the worker so that he will understand how his weekly benefit amount, including allowances for dependants, and his maximum benefit amount were figured. If benefits are computed by means of a table contained in the law, the table must be furnished with the notice of determination whether benefits are granted or denied.

The written notice of determination must show clearly the weekly benefit amount and the maximum potential benefits to which the claimant is entitled.

The notice to a claimant found ineligible by reason of insufficient earnings in the base period must inform him clearly of the reasons of ineligibility. An explanation of the benefit formula contained in a booklet or pamphlet should be given to each claimant at or prior to the time he receives written notice of a monetary determination.

d. **Benefit year.**

An explanation of what is meant by the benefit year and identification of the claimant's benefit year must be included in the notice of determination.

e. **Information as to benefits for partial unemployment.**

There must be included either in the written notice of determination or in a booklet or pamphlet an explanation of the claimant's rights to partial benefits for any week with respect to which he is working less than his normal customary full-time workweek because of lack of work and for which he earns less than his weekly benefit amount or weekly benefit amount plus earnings, whichever is provided by State law. If the explanation is contained in the notice of determination, reference to the item in the notice in which his weekly benefit amount is entered should be made.

f. **Deductions from weekly benefits.**

(1) **Earnings.** Although written determinations deducting earnings from a claimant's weekly benefit amount is generally not required (see paragraph 1 c (1) above), where written notice of determination is required (or given) it shall set forth the amount of earnings, the method of computing the deduction in sufficient detail to able the claimant to verify the accuracy of the deduction, and his right to

*protest, request determination, and appeal. Where a written notice of determination is given to the claimant because there has been a change in State law or in the application of the law, an explanation of the change shall be included.*

*Where claimant is not required to receive a written notice of determination, he must be given a booklet or pamphlet the first time in his benefit year that there is a deduction for earnings which shall include the following information:*

*(a) The method of computing deductions for earnings insufficient detail to enable the claimant to verify the accuracy of the deduction;*

*(b) That he will not automatically be given a written notice of determination for a week with respect to which there is a deduction for earnings (unless there is a dispute concerning the reduction with respect to a week or there has been a change in the State law or in the application of the law affecting the deduction) but that he may not obtain such a written notice upon request; and*

*(c) A clear statement of his right to protest, request a redetermination, and appeal from any determination deducting earnings from his weekly benefit amount even though he does not automatically receive a written notice of determination; and if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.*

**(2) Other deductions.**

*(a) A written notice of determination is required with respect to the first week in claimant's benefit year in which there is a reduction from his benefits for a reason other than earnings. This notice must describe the deduction made from the claimant's weekly benefit amount, the reason for the deduction, the method of computing it in sufficient detail to enable him to verify the accuracy of such deduction, and his right to protest, request redetermination, or appeal.*

*(b) A written notice of determination is not required for subsequent weeks that a deduction is made for the same reason and on the basis of the same facts, if the notice of*

determination pursuant to (2) (a), or a booklet or pamphlet given him with such notice explains (i) the several kinds of deductions that can be made under State law (e.g., retirement pensions, vacation pay, and overpayments); (ii) the method of computing each kind of deduction in sufficient detail that claimant will be able to verify the accuracy of deductions made from his weekly benefit payments; (iii) any limitation on the amount of deduction or the time in which any deduction may be made; (iv) that he will not automatically be given a written notice of determination for subsequent weeks with respect to which there is a deduction for the same reason and on the basis of the same facts, but that he may not obtain a written notice of determination upon request; (v) his right to protest, request redetermination, or appeal with respect to subsequent weeks for which there is a reduction from his benefits for the same reason, and on the basis of the same facts even though he does not automatically receive a written notice of determination; and (vi) that if the State law requires written notice of determination in order to effectuate a protest, redetermination, or appeal, he must be so advised and advised also that he must request a written notice of determination before he takes any such action.

**g. Seasonality factors.**

If the individual's determination is affected by seasonality factors under the State law, an adequate explanation must be made. General explanations for subsequent weeks may be included in a booklet or pamphlet given claimant with his notice of monetary determination.

**h. Disqualification or ineligibility.** If a disqualification is imposed, or if the claimant is declared ineligible for one or more weeks, he must be given not only a statement of the period of disqualification or ineligibility and the amount of wage-credit reductions, if any, but also an explanation of the reason for the ineligibility or disqualification. This explanation must be sufficiently detailed so that he will understand why he is ineligible or why he has been disqualified, and what he must do in order to requalify for benefits or purge the disqualification. The statement must be individualized to indicate the facts upon which the determination was based, e.g., state, "It is found that you were tired of working; the separation was voluntary, and the reason does not constitute good cause," rather than merely the phrase "voluntary quit." Checking a box as to the reason for the disqualification statement of the reason for the disqualification need

not be a restatement of all facts considered in arriving at the determination.

i. **Appeal rights.** The claimant must be given information with respect to his appeal rights.

(1) The following information shall be included in the notice of determination:

(a) A statement that he may appeal or, if the State law requires or permits a protest or redetermination before an appeal, that he may protest or request a redetermination.

(b) The period within which an appeal, protest, or request for redetermination must be filed. The number of days provided by statute must be shown as well as either the beginning date or ending date of the period. (It is recommended that the ending date of the appeal period be shown, as this is the more understandable of the alternatives.)

(2) The following information must be included either in the notice of determination or in separate informational material referred to in the notice:

(a) The manner in which the appeal, protest, or request for redetermination must be filed, e.g., by signed letter, written statement, or on a prescribed form, and the place or places to which the appeal, protest, or request for redetermination may be mailed or hand-delivered.

(b) An explanation of any circumstances (such as non-workdays, good cause, etc.) which will extend the period for the appeal, protest, or request for redetermination beyond the date stated or identified in the notice of determination.

(c) That any further information claimant may need or desire can be obtained together with assistance in filing his appeal, protest, or request for redetermination from the local office.

If the information is given in separate material, the notice of determination would adequately refer to so



*much material if it said, for example, " For other information about your (appeal), (protest), (redetermination) rights, see pages \_\_\_\_\_ to \_\_\_\_\_ of the \_\_\_\_\_(name of pamphlet or booklet) heretofore furnished to you."*

## NONMONETARY DETERMINATIONS QUALITY DATA COLLECTION INSTRUMENT

	1. IDENTIFICATION # 00000 (5-digit sample sequence) <b>(skeleton field)</b>		
	2. ISSUE CODE (2-digit code) <b>(skeleton field)</b>		
	3. CASE MATERIAL FOUND? (Y/N) (If "N", remaining elements are left blank)		
	4. DATE ON DETERMINATION: (mmddyyyy) <b>(skeleton field)</b>		
	5. CORRECT DATE ON DETERMINATION? (Y/N)		
	6. CORRECTED DATE ON DETERMINATION: (mmddyyyy)		
	7. CORRECT ISSUE CODE? (Y/N) (If "Y", then item 8 is blank)		
	8. IF ITEM 7 IS "N", ENTER THE CORRECT CODE FROM BELOW. (If no issue existed, enter "00"; if a nonmonetary redetermination, enter "01")		
	<b>SEPARATION</b>	<b>NON-SEPARATIONS</b>	<b>MULTI-CLAIMANT</b>
	10 Quit 20 Discharge (MC)	30 Able/Available 31 Reporting Requirements 40 Work Search 50 Disq/Ded. Income 60 Refusal of Work; Failure to Apply/Accept Referral 70 JS Registration 73 Profiling	80 School Employee 81 Alien 82 Athlete 83 Unemployment Status 84 Seasonality 85 Removal of DQ 86 Fraud Administrative Penalty  90 Labor Dispute 99 Multi-Claimant (Other)
	9. INTRASTATE CLAIM? (Y/N)		
	10. PROGRAM TYPE:     UI     UCFE     UCX		
	11. NONMONETARY DETERMINATION OUTCOME: <u>A</u> LLOWED <u>D</u> ENIED		
	12. OUTCOME REPORTED CORRECTLY? (Y/N)		
	13. SWA USE ONLY		
	14. W/E DATE OF FIRST WEEK AFFECTED BY DETERMINATION: (mmddyyyy) <b>(skeleton field)</b>		
	15. CORRECT WEEK ENDING DATE? (Y/N)		
	16. CORRECTED WEEK ENDING DATE (blank if item 15 is "Y"): (mmddyyyy)		
	17. ISSUE DETECTION DATE: (mmddyyyy)		
	18. CORRECT ISSUE DETECTION DATE? (Y/N)		
	19. CORRECTED ISSUE DETECTION DATE (blank if item 18 is "Y"): (mmddyyyy)		
	20. CLAIMANT INFORMATION: <u>A</u> dequate=15, <u>I</u> nadequate=10, <u>N</u> ot Obtained=0		
	21. EMPLOYER INFORMATION: <u>A</u> dequate=15, <u>I</u> nadequate=10, <u>N</u> ot Obtained=0, NA( <u>X</u> )=15		
	22. INFO/FACTS FROM OTHERS: <u>A</u> dequate=15, <u>I</u> nadequate=10, <u>N</u> ot Obtained=0, NA( <u>X</u> )=15		
	23. LAW/POLICY: <u>M</u> eets=45, <u>Q</u> uestionable=30, Does not meet ( <u>W</u> )=0		
	24. WRITTEN DETERMINATION: <u>A</u> dequate=10, <u>I</u> nadequate=5, <u>W</u> rong (W)=0 (If " <u>W</u> " then #23 cannot be " <u>M</u> ")		

**COMMENTS\*\***

## NONMONETARY DETERMINATIONS QUALITY DATA COLLECTION INSTRUMENT

Page – V - 1	1. IDENTIFICATION # 00000 (5-digit sample sequence) <b>(skeleton field)</b>		
Page – V - 1	2. ISSUE CODE (2-digit code) <b>(skeleton field)</b>		
Page – V - 1	3. CASE MATERIAL FOUND? (Y/N) (If “N”, remaining elements are left blank)		
Page – V - 2	4. DATE ON DETERMINATION: (mmddyyyy) <b>(skeleton field)</b>		
Page – V - 2	5. CORRECT DATE ON DETERMINATION? (Y/N)		
Page – V - 3	6. CORRECTED DATE ON DETERMINATION: (mmddyyyy)		
Page – V - 3	7. CORRECT ISSUE CODE? (Y/N) (If “Y”, then item 8 is blank)		
Page – V - 3	8. IF ITEM 7 IS “N”, ENTER THE CORRECT CODE FROM BELOW. (If no issue existed, enter “00”; if a nonmonetary redetermination, enter “01”)		
	<b>SEPARATION</b>	<b>NON-SEPARATIONS</b>	<b>MULTI-CLAIMANT</b>
	10 Quit 20 Discharge (MC)	30 Able/Available 31 Reporting Requirements 40 Work Search 50 Disq/Ded. Income 60 Refusal of Work; Failure to Apply/Accept Referral 70 JS Registration 73 Profiling	80 School Employee 81 Alien 82 Athlete 83 Unemployment Status 84 Seasonality 85 Removal of DQ 86 Fraud Administrative Penalty  90 Labor Dispute 99 Multi-Claimant (Other)
Page – V - 4	9. INTRASTATE CLAIM? (Y/N)		
Page – V - 5	10. PROGRAM TYPE:     UI     UCFE     UCX		
Page – V - 5	11. NONMONETARY DETERMINATION OUTCOME: <b>A</b> LLOWED <b>D</b> ENIED		
Page – V - 5	12. OUTCOME REPORTED CORRECTLY? (Y/N)		
Page – V - 6	13. SWA USE ONLY		
Page – V - 7	14. W/E DATE OF FIRST WEEK AFFECTED BY DETERMINATION: (mmddyyyy) <b>(skeleton field)</b>		
Page – V - 7	15. CORRECT WEEK ENDING DATE? (Y/N)		
Page – V - 7	16. CORRECTED WEEK ENDING DATE (blank if item 15 is “Y”): (mmddyyyy)		
Page – V - 8	17. ISSUE DETECTION DATE: (mmddyyyy)		
Page – V - 8	18. CORRECT ISSUE DETECTION DATE? (Y/N)		
Page – V - 8	19. CORRECTED ISSUE DETECTION DATE (blank if item 18 is “Y”): (mmddyyyy)		
Page – V -11	20. CLAIMANT INFORMATION: <b>A</b> dequate=15, <b>I</b> nadequate=10, <b>N</b> ot Obtained=0		
Page – V -12	21. EMPLOYER INFORMATION: <b>A</b> dequate=15, <b>I</b> nadequate=10, <b>N</b> ot Obtained=0, <b>NA</b> ( <b>X</b> )=15		
Page – V -13	22. INFO/FACTS FROM OTHERS: <b>A</b> dequate=15, <b>I</b> nadequate=10, <b>N</b> ot Obtained=0, <b>NA</b> ( <b>X</b> )=15		
Page – V -14	23. LAW/POLICY: <b>M</b> eets=45, <b>Q</b> uestionable=30, Does not meet ( <b>W</b> )=0		
Page – V -15	24. WRITTEN DETERMINATION: <b>A</b> dequate=10, <b>I</b> nadequate=5, <b>W</b> rong (W)=0 (If “ <b>W</b> ” then #23 cannot be “ <b>M</b> ”)		

**COMMENTS\*\***

Claimant Information	Adequate/15	Inadequate/10	Not Obtained/0	Not Applicable/15
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Comments:

Employer Information	Adequate/15	Inadequate/10	Not Obtained/0	Not Applicable/15
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Comments:

Facts From Others	Adequate/15	Inadequate/10	Not Obtained/0	Not Applicable/15
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Comments:

Law & Policy	Meets/45	Questionable/30	Does Not Meet/0
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Comments:

Written Determination	Adequate/10	Inadequate/5	Wrong/0
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Comments:

Total
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Comments on Other Elements

\*\*Entering scores on the comment page is optional.