

State law shall require the employer to reimburse the State unemployment fund for not less than 50 percent of any sharable compensation that is attributable under the State law to service with such employer; and as to any compensation which is not sharable compensation under §615.14, the State law shall require the employer to reimburse the State unemployment fund for 100 percent, instead of 50 percent, of any such compensation paid.

§ 615.11 Extended Benefit Periods.

(a) *Beginning date.* Except as provided in paragraph (d) of this section, an Extended Benefit Period shall begin in a State on the first day of the third calendar week after a week for which there is a State “on” indicator in that State.

(b) *Ending date.* Except as provided in paragraph (c) of this section, an Extended Benefit Period in a State shall end on the last day of the third week after the first week for which there is a State “off” indicator in that State.

(c) *Duration.* An Extended Benefit Period which becomes effective in any State shall continue in effect for not less than 13 consecutive weeks.

(d) *Limitation.* No Extended Benefit Period may begin in any State by reason of a State “on” indicator before the 14th week after the ending of a Prior Extended Benefit Period with respect to such State.

§ 615.12 Determination of “on” and “off” indicators.

(a) *Standard State indicators.* (1) There is a State “on” indicator in a State for a week if the head of the State agency determines, in accordance with this section, that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law—

(i) Equalled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years, and

(ii) Equalled or exceeded 5.0 percent.

(2) There is a State “off” indicator in a State for a week if the head of the State agency determines, in accordance with this section, that, for the pe-

riod consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law—

(i) Was less than 120 percent of the average of such rates for the corresponding 13 week periods ending in each of the preceding two calendar years, or

(ii) Was less than 5.0 percent.

(3) The standard State indicators in this paragraph (a) shall apply to weeks beginning after September 25, 1982.

(b) *Optional State indicators.* (1)(i) A State may, in addition to the State indicators in paragraph (a) of this section, provide by its law that there shall be a State “on” indicator in the State for a week if the head of the State agency determines, in accordance with this section, that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law equalled or exceeded 6.0 percent even though it did not meet the 120 percent factor required under paragraph (a).

(ii) A State which adopts the optional State indicator must also provide that, when it is in an Extended Benefit Period, there will not be an “off” indicator until (A) the State rate of insured unemployment is less than 6.0 percent, and (B) either its rate of insured unemployment is less than 5.0 percent or is less than 120 percent of the average of such rates for the corresponding 13-week periods ending in each of the preceding two calendar years.

(2) The optional State indicators in this paragraph (b) shall apply to weeks beginning after September 25, 1982.

(c) *Computation of rate of insured unemployment—(1) Equation.* Each week the State agency head shall calculate the rate of insured unemployment under the State law (not seasonally adjusted) for purposes of determining the State “on” and “off” and “no change” indicators. In making such calculations the State agency head shall use a fraction, the numerator of which shall be the weekly average number of weeks claimed in claims filed (not seasonally adjusted) in the State in the 13-week period ending with the week for which

the determination is made, and the denominator of which shall be the average monthly employment covered by the State law for the first four of the last six calendar quarters ending before the close of the 13-week period. The quotient obtained is to be computed to four decimal places, and is not otherwise rounded, and is to be expressed as a percentage by multiplying the resultant decimal fraction by 100.

(2) *Counting weeks claimed.* To determine the average number of weeks claimed in claims filed to serve as the numerator under paragraph (c)(1), the State agency shall include claims for all weeks for regular compensation, including claims taken as agent State under the Interstate Benefit Payment Plan. It shall exclude claims—

(i) For Extended Benefits under any State law,

(ii) For additional compensation under any State law, and

(iii) Under any Federal law except joint claims which combine regular compensation and compensation payable under 5 U.S.C. chapter 85.

(3) *Method of computing the State 120 percent factor.* The rate of insured unemployment for a current 13-week period shall be divided by the average of the rates of insured unemployment for the corresponding 13-week periods in each of the two preceding calendar years to determine whether the rate is equal to 120 percent of the average rate for the two years. The quotient obtained shall be computed to four decimal places and not otherwise rounded, and shall be expressed as a percentage by multiplying the resultant decimal fraction by 100. The average of the rates for the corresponding 13-week periods in each of the two preceding calendar years shall be one-half the sum of such rates computed to four decimal places and not otherwise rounded. To determine which are the corresponding weeks in the preceding years—

(i) The weeks shall be numbered starting with week number 1 as the first week ending in each calendar year.

(ii) The 13-week period ending with any numbered week in the current year shall correspond to the period ending with that same numbered week in each preceding year.

(iii) When that period in the current year ends with week number 53, the corresponding period in preceding years shall end with week number 52 if there is no week number 53.

(d) *Amendment of State indicator rates.* (1) Because figures used for determinations under this section may contain errors and because it is not practical to apply any correction in a State “on” or “off” or “no change” indicator retroactively either to recover amounts paid or to adjudicate claims for past periods in which claimants failed to make the required active search for work, any determination by the head of a State agency of an “on” or “off” or “no change” indicator shall not be corrected more than three weeks after the close of the week to which it applies. If any figure used in the computation of a rate of insured unemployment is later found to be wrong, the correct figure shall be used to redetermine the rate of insured unemployment and of the 120 percent factor for that week and all subsequent weeks, but no determination of previous “on” or “off” or “no change” indicator shall be affected unless the redetermination is made within the time the indicator may be corrected under the first sentence of this paragraph (d)(1). Any change hereunder shall be subject to the concurrence of the Department as provided in paragraph (e) of this section.

(2) Any determination of the rate of insured unemployment and its effect on an “on” or “off” or “no change” indicator may be challenged by appeal or by other proceedings, as shall be provided by State law, but the implementation of any change in the indicator from one week to another shall not be stayed or postponed. In a hearing on any such challenge the issue may be limited to the accuracy of the determination of the rate of insured unemployment. If an error in that rate affecting the “on” or “off” or “no change” indicator is discovered in such a hearing or other proceeding, its retroactive effect shall be limited as provided in paragraph (d)(1).

(e) *Notice to Secretary.* Within 10 calendar days after the end of any week with respect to which the head of a State agency has determined that there is an “on,” or “off,” or “no

change” indicator in the State, the head of the State agency shall notify the Department of the determination. The notice shall state clearly the State agency head’s determination of the specific week for which there is a State “on” or “off” or “no change” indicator. The notice shall include also the State agency head’s findings supporting the determination, with a certification that the findings are made in accordance with the requirements of this § 615.15. Determinations and findings made as provided in this section shall be accepted by the Department, but the head of the State agency shall comply with such provisions as the Department may find necessary to assure the correctness and verification of notices given under this paragraph. A notice shall not become final for purposes of the Act and this part until such notice is accepted by the Department.

§ 615.13 Announcement of the beginning and ending of Extended Benefit Periods.

(a) *State indicators.* Upon receipt of the notice required by § 615.12(e) which is acceptable to the Department, the Department shall publish in the FEDERAL REGISTER a notice of the State agency head’s determination that there is an “on” or an “off” indicator in the State, as the case may be, the name of the State and the beginning or ending of the Extended Benefit Period, whichever is appropriate. The Department shall also notify appropriate news media, the heads of all other State agencies, and the Regional Administrators of the Employment and Training Administration of the State agency head’s determination of such State “on” or “off” indicator and of its effect.

(b) *Publicity by State.* Whenever a State agency head determines that there is an “on” indicator in the State by reason of which an Extended Benefit Period will begin in the State, or an “off” indicator by reason of which an Extended Benefit Period in the State will end, the head of the State agency shall promptly announce the determination through appropriate news media in the State and notify the Department in accordance with § 615.12(e). Such announcement shall include the

beginning or ending date of the Extended Benefit Period, whichever is appropriate. In the case of an Extended Benefit Period that is about to begin, the announcement shall describe clearly the unemployed individuals who may be eligible for Extended Benefits during the period, and in the case of an Extended Benefit Period that is about to end, the announcement shall also describe clearly the individuals whose entitlement to Extended Benefits will be terminated.

(c) *Notices to individuals.* (1) Whenever there has been a determination that an Extended Benefit Period will begin in a State, the State agency shall provide prompt written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not end prior to the beginning of the Extended Benefit Period, and who exhausted all rights under the State law to regular compensation before the beginning of the Extended Benefit Period.

(2) The State agency shall provide such notice promptly to each individual who begins to claim sharable regular benefits or who exhausts all rights under the State law to regular compensation during an Extended Benefit Period, including exhaustion by reason of the expiration of the individual’s benefit year.

(3) The notices required by paragraphs (c) (1) and (2) of this section shall describe those actions required of claimants for sharable regular compensation and Extended Benefits and those disqualifications which apply to such benefits which are different from those applicable to other claimants for regular compensation which is not sharable.

(4) Whenever there has been a determination that an Extended Benefit Period will end in a State, the State agency shall provide prompt written notice to each individual who is currently filing claims for Extended Benefits of the forthcoming end of the Extended Benefit Period and its effect on the individual’s right to Extended Benefits.

§ 615.14 Payments to States.

(a) *Sharable compensation.* (1) The Department shall promptly upon receipt