§ 625.9 Determinations of entitlement; notices to individual.

(a) Determination of initial application. (1) The State agency shall promptly, upon the filing of an initial application for DUA, determine whether the individual is eligible, and if the individual is found to be eligible, the weekly amount of DUA payable to the individual and the period during which DUA is payable.

(2) An individual’s eligibility for DUA shall be determined, where a reliable record of employment, self-employment and wages is not obtainable, on the basis of an affidavit submitted to the State agency by the individual, and on a form prescribed by the Secretary which shall be furnished to the individual by the State agency.

(b) Determinations of weekly applications. The State agency shall promptly, upon the filing of an application for a payment of DUA with respect to a week of unemployment, determine whether the individual is entitled to a payment of DUA with respect to that week, and, if entitled, the amount of DUA to which the individual is entitled.

(c) Redetermination. The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to DUA.

(d) Notices to individual. The State agency shall give notice in writing to the individual, by the most expeditious method, of any determination or redetermination of an initial application, and of any determination of an application for DUA with respect to a week of unemployment which denies DUA or reduces the weekly amount initially determined to be payable, and of any redetermination of an application for DUA with respect to a week of unemployment. Each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and written notices of redeterminations with respect to claims for regular compensation.

(e) Promptness. Full payment of DUA when due shall be made with the greatest promptness that is administratively feasible.

(f) Secretary’s Standard. The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals applying for DUA, shall be consistent with this part and with the Secretary’s “Standard for Claim Determinations—Separation Information,” Employment Security Manual, Part V, sections 6010 et seq. (Appendix B of this part).

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(Pub. L. No. 96–511)

agency of a State (other than the State agency of the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, or the Trust Territory of the Pacific Islands) may be appealed by the applicant in accordance with the applicable State law to the first-stage administrative appellate authority in the same manner and to the same extent as a determination or redetermination of a right to regular compensation may be appealed under the applicable State law, except that the period for appealing shall be 60 days from the date the determination or redetermination is issued or mailed instead of the appeal period provided for in the applicable State law. Any decision on a DUA first-stage appeal must be made and issued within 30 days after receipt of the appeal by the State.

(2) Notice of the decision on appeal, and the reasons therefor, shall be given to the individual by delivering the notice to such individual personally or by mailing it to the individual’s last known address, whichever is most expeditious. The notice of decision shall contain information as to the individual’s right to review of the decision by the Regional Administrator, Employment and Training Administration, for Region VI (San Francisco), and the manner of obtaining such review, including the address of the Regional Administrator. Notice of the decision on appeal shall be given also to the State agency and to the Regional Administrator.

(c) Review by Regional Administrator.

(1) The appropriate Regional Administrator, Employment and Training Administration, upon request for review by an applicant or the State agency shall, or upon the Regional Administrator’s own motion may, review a decision on appeal issued pursuant to paragraph (a) or (b) of this section.

(2) Any request for review by an applicant or a State agency shall be filed, and any review on the Regional Administrator’s own motion shall be undertaken, within 15 days after notice of the decision on appeal was delivered or mailed to the individual.

(3)(i) A request for review by an individual may be filed with the appropriate State agency, which shall forward the request to the appropriate Regional Administrator, Employment and Training Administration, or may be filed directly with the appropriate Regional Administrator.

(ii) A request for review by a State agency shall be filed with the appropriate Regional Administrator, and a copy shall be served on the individual by delivery to the individual personally or by mail to the individual’s last known address.

(iii) When a Regional Administrator undertakes a review of a decision on the Regional Administrator’s own motion, notice thereof shall be served promptly on the individual and the State agency.

(iv) Whenever review by a Regional Administrator is undertaken pursuant
§ 625.10

20 CFR Ch. V (4–1–10 Edition)

to an appeal or on the Regional Administrator’s own motion, the State agency shall promptly forward to the Regional Administrator the entire record of the case.

(v) Where service on the individual is required by paragraph (c)(3)(ii) of this section, adequate proof of service shall be furnished for the record before the Regional Administrator, and be a condition of the Regional Administrator undertaking review pursuant to this paragraph.

The decision of the Regional Administrator on review shall be rendered promptly, and not later than the earlier of—

(i) 45 days after the appeal is received or is undertaken by the Regional Administrator, or

(ii) 90 days from the date the individual’s appeal from the determination or redetermination was received by the State agency.

(4) The Regional Administrator shall be mailed promptly to the last known address of the individual, to the State agency of the applicable State, and to the Administrator, Office of Workforce Security. The decision of the Assistant Secretary as provided in paragraph (d) of this section.

(d) Further review by the Assistant Secretary. (1) The Assistant Secretary for Employment and Training on his or her own motion may review any decision by a Regional Administrator issued pursuant to paragraph (c) of this section.

(2) Notice of a motion for review by the Assistant Secretary shall be given to the applicant, the State agency of the applicable State, the appropriate Regional Administrator, and the Administrator, Office of Workforce Security.

(3) When the Assistant Secretary and the State agency are notified of the Assistant Secretary’s motion for review, they shall forward all records in the case to the Assistant Secretary.

(4) Review by the Assistant Secretary shall be solely on the record in the case, any other written contentions or evidence requested by the Assistant Secretary, and any further evidence or arguments offered by the individual, the State agency, the Regional Administrator, or the Administrator, Office of Workforce Security, which are mailed to the Assistant Secretary within 15 days after mailing the notice of motion for review.

(5) Upon review of a case under this paragraph, the Assistant Secretary may affirm, modify, or reverse the decision of the Regional Administrator, and may remand the case for further proceedings and decision in accordance with the Assistant Secretary’s decision.

(6) The decision of the Assistant Secretary shall be made promptly, and notice thereof shall be sent to the applicant, the State agency, the Regional Administrator, and the Administrator, Office of Workforce Security.

(e) Procedural requirements. (1) All decisions on first-stage appeals from determinations or redeterminations by the State agencies must be made within 30 days of the appeal; therefore, the Secretary’s “Standard for Appeals Promptness—Unemployment Compensation” in part 650 of this chapter shall not apply to the DUA program.

(2) The provisions on right of appeal and opportunity for hearing and review with respect to applications for DUA shall be consistent with this part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act, 42 U.S.C. 503(a)(1) and 503(a)(3).

(3) Any petition or other matter required to be filed within a time limit under this section shall be deemed to be filed at the time it is delivered to an appropriate office, or at the time of the postmark if it is mailed via the United States Postal Service to an appropriate office.

(4) If any limited time period specified in this section ends on a Saturday, Sunday, or a legal holiday in the major disaster area, the time limit shall be extended to the next business day.