

receipt of a request from the Department, a copy of any determination or redetermination ruling on an individual's entitlement to DUA.

(2) If the Department believes a determination or redetermination is inconsistent with the Secretary's interpretation of the Act, the Department may at any time notify the State agency of the department's view. Thereafter, the State agency shall appeal if possible, and shall not follow such determination or redetermination as a precedent; and in any subsequent proceedings which involve such determination or redetermination, or wherein such determination or redetermination is cited as precedent or otherwise relied upon, the State agency shall inform the hearing officer of the Department's view and shall make all reasonable efforts to obtain modification, limitation, or overruling of the determination or redetermination.

(3) A State agency may request reconsideration of a notice that a determination or redetermination is inconsistent with the Act, and shall be given an opportunity to present views and arguments if desired. If a determination or redetermination setting a precedent becomes final, which the Department believes to be inconsistent with the Act, the Secretary will decide whether the Agreement with the State shall be terminated.

(4) Concurrence of the Department in a determination or redetermination shall not be presumed from the absence of a notice issued pursuant to this paragraph.

[42 FR 46712, Sept. 16, 1977, as amended at 55 FR 554, Jan. 5, 1990]

#### § 625.2 Definitions.

For the purposes of the Act and this part:

(a) *Act* means sections 410 and 423 of *The Robert T. Stafford Disaster Relief and Emergency Assistance Act* (formerly section 407 of the "Disaster Relief Act of 1974", Pub. L. 93-288, 88 Stat. 143, 156, approved May 22, 1974), 42 U.S.C. 5177, 5189a, as amended by *The Disaster Relief and Emergency Assistance Amendments of 1988*, Pub. L. 100-707, 102 Stat. 4689, 4704, 4705, approved November 23, 1988.

(b) *Agreement* means the Agreement entered into pursuant to the Act, between a State and the Secretary of Labor of the United States, under which the State agency of the State agrees to make payments of Disaster Unemployment Assistance in accordance with the Act and the regulations and procedures thereunder prescribed by the Secretary.

(c) *Announcement date* means the first day on which the State agency publicly announces the availability of Disaster Unemployment Assistance in the State, pursuant to § 625.17.

(d) *Compensation* means unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, and shall include any assistance or allowance payable to an individual with respect to such individual's unemployment under any State law or Federal unemployment compensation law unless such governmental unemployment compensation program payments are not considered "compensation" by ruling of the Internal Revenue Service or specific provision of Federal and/or State law because such payments are based on employee contributions which are not deductible from Federal income tax liability until the total nondeductible contributions paid by the employee to such program has been paid or are not "compensation" as defined under paragraph (d)(5) of this section. Governmental unemployment compensation programs include (but are not limited to) programs established under: a State law approved by the Secretary of Labor pursuant to section 3304 of the Internal Revenue Code, chapter 85 of title 5 of the United States Code, the Railroad Unemployment Insurance Act (45 U.S.C. 351 *et seq.*), any Federal supplementary compensation law, and trade readjustment allowances payable under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 *et seq.*). "Compensation" also includes "regular compensation", "additional compensation", "extended compensation", "Federal supplementary compensation", and "disability payments" defined as follows:

(1) *Regular compensation* means compensation payable to an individual under any State law or the unemployment compensation plan of a political

subdivision of a State and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85 (parts 609 and 614 of this chapter), but not including extended compensation or additional compensation.

(2) *Additional compensation* means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85.

(3) *Extended compensation* means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 (title II, Pub. L. 91-373; 84 Stat. 695, 708; part 615 of this chapter), as amended with respect to the payment of extended compensation, and, when so payable, includes additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85.

(4) *Federal supplementary compensation* means supplemental compensation payable under a temporary Federal law after exhaustion of regular and extended compensation.

(5) *Disability payments* means cash disability payments made pursuant to a governmental program as a substitute for cash unemployment payments to an individual who is ineligible for such payments solely because of the disability, except for payments made under workmen's compensation acts for personal injuries or sickness.

(e) *Date the major disaster began* means the date a major disaster first occurred, as specified in the understanding between the Federal Emergency Management Agency and the Governor of the State in which the major disaster occurred.

(f) *Disaster Assistance Period* means the period beginning with the first week following the date the major disaster began, and ending with the 26th week subsequent to the date the major disaster was declared.

(g) *Disaster Unemployment Assistance* means the assistance payable to an individual eligible for the assistance

under the Act and this part, and which is referred to as DUA.

(h) *Federal Coordinating Officer* means the official appointed pursuant to section 302 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, to operate in the affected major disaster area.

(i) *Governor* means the chief executive of a State.

(j) *Initial application* means the first application for DUA filed by an individual, on the basis of which the individual's eligibility for DUA is determined.

(k) *Major disaster* means a major disaster as declared by the President pursuant to section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(l) *Major disaster area* means the area identified as eligible for Federal assistance by the Federal Emergency Management Agency, pursuant to a Presidential declaration of a major disaster.

(m) *Secretary* means the Secretary of Labor of the United States.

(n) *Self-employed individual* means an individual whose primary reliance for income is on the performance of services in the individual's own business, or on the individual's own farm.

(o) *Self-employment* means services performed as a self-employed individual.

(p) *State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands.

(q) *State agency* means—

(1) In all States except the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands and the Trust Territory of the Pacific Islands, the agency administering the State law; and

(2) In the Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the

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Marshall Islands and the Trust Territory of the Pacific Islands, the agency designated in the Agreement entered into by the State.

(r)(1) *State law* means, with respect to—

(i) The States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands, the unemployment compensation law of the State which has been approved under section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)); and

(ii) The Territory of Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands and the Trust Territory of the Pacific Islands, the Hawaii Employment Security Law.

(2) *Applicable State law* means, for an individual, the State law of the applicable State for an individual as provided in § 625.12.

(s) *Unemployed worker* means an individual who was employed in or was to commence employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's employment for wages, and whose unemployment is caused by a major disaster as provided in § 625.5(a).

(t) *Unemployed self-employed individual* means an individual who was self-employed in or was to commence self-employment in the major disaster area at the time the major disaster began, and whose principal source of income and livelihood is dependent upon the individual's performance of service in self-employment, and whose unemployment is caused by a major disaster as provided in § 625.5(b).

(u) *Wages* means remuneration for services performed for another, and, with respect to a self-employed individual, net income from services performed in self-employment.

(v) *Week* means a week as defined in the applicable State law.

(w) *Week of unemployment* means—

(1) For an unemployed worker, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual

performs no work and earns no wages, or has less than full-time work and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual works less than regular, full-time hours for the individual's regular employer, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law.

(2) For an unemployed self-employed individual, any week during which the individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week during which the individual performs no services in self-employment or in an employer-employee relationship, or performs services less than full-time and earns wages not exceeding the minimum earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which the individual has odd jobs or subsidiary work and earns wages not exceeding the maximum earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by the applicable State law, or during which the only activities or services performed are for the sole purpose of enabling the individual to resume self-employment.

(3) If the week of unemployment for which an individual claims DUA is a week with respect to which the individual is reemployed in a suitable position or has commenced services in self-employment, that week shall be treated as a week of partial unemployment

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if the week qualifies as a week of partial unemployment as defined in this paragraph.

[42 FR 46712, Sept. 16, 1977, as amended at 55 FR 554, Jan. 5, 1990; 56 FR 22805, May 16, 1991]

### § 625.3 Reemployment assistance.

(a) *State assistance.* Except as provided in paragraph (b) of this section, the applicable State shall provide, without reimbursement from any funds provided under the Act, reemployment assistance services under any other law administered by the State to individuals applying for DUA and all other individuals who are unemployed because of a major disaster. Such services shall include, but are not limited to, counseling, referrals to suitable work opportunities, and suitable training, to assist the individuals in obtaining reemployment in suitable positions as soon as possible.

(b) *Federal assistance.* In the case of American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and the Trust Territory of the Pacific Islands, the Department of Labor, in consultation with the Federal Emergency Management Agency, will determine what reemployment services are needed by DUA applicants, and if any available Federal programs of reemployment assistance services can be implemented in that jurisdiction.

[55 FR 554, Jan. 5, 1990; as amended at 56 FR 22806, May 16, 1991]

### § 625.4 Eligibility requirements for Disaster Unemployment Assistance.

An individual shall be eligible to receive a payment of DUA with respect to a week of unemployment, in accordance with the provisions of the Act and this part if:

(a) That week begins during a Disaster Assistance Period;

(b) The applicable State for the individual has entered into an Agreement which is in effect with respect to that week;

(c) The individual is an unemployed worker or an unemployed self-employed individual;

(d) The individual's unemployment with respect to that week is caused by a major disaster, as provided in § 625.5;

(e) The individual has filed a timely initial application for DUA and, as appropriate, a timely application for a payment of DUA with respect to that week;

(f) That week is a week of unemployment for the individual;

(g) The individual is able to work and available for work within the meaning of the applicable State law: *Provided*, That an individual shall be deemed to meet this requirement if any injury caused by the major disaster is the reason for inability to work or engage in self-employment; or, in the case of an unemployed self-employed individual, the individual performs service or activities which are solely for the purpose of enabling the individual to resume self-employment;

(h) The individual has not refused a bona fide offer of employment in a suitable position, or refused without good cause to resume or commence suitable self-employment, if the employment or self-employment could have been undertaken in that week or in any prior week in the Disaster Assistance Period; and

(i) The individual is not eligible for compensation (as defined in § 625.2(d)) or for waiting period credit for such week under any other Federal or State law, except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit. An individual shall be considered ineligible for compensation or waiting period credit (and thus potentially eligible for DUA) if the individual is under a disqualification for a cause that occurred prior to the individual's unemployment due to the disaster, or for any other reason is ineligible for compensation or waiting period credit as a direct result of the major disaster.

[42 FR 46712, Sept. 16, 1977, as amended at 55 FR 555, Jan. 5, 1990]

### § 625.5 Unemployment caused by a major disaster.

(a) *Unemployed worker.* The unemployment of an unemployed worker is caused by a major disaster if—