If the State law provisions do not conform to the "suggested State law requirements" set forth in sections 5001 and 5002, but the State law contains alternative provisions, the Manpower Administrator, in collaboration with the State agency, will study the actual or anticipated effect of the alternative provisions. If the Manpower Administrator concludes that the alternative provisions satisfy the requirements of the Federal law as construed by the Secretary (see section 5000 B) he will so notify the State agency. If he does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy such requirements, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy such requirements, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.5.

APPENDIX B TO PART 625—STANDARD FOR CLAIM DETERMINATIONS—SEPARATION INFORMATION

EMPLOYMENT SECURITY MANUAL (PART V, SECTIONS 6010–6015)

6010 Federal Law Requirements. Section 303(a)(1) of the Social Security Act requires that a State law include provision for: "Such methods of administration . . . as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

Section 303(a)(3) of the Social Security Act requires that a State law include provision for: "Opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied."

Section 303(a)(4) of the Federal Unemployment Tax Act and section 303(a)(5) of the Social Security Act require that a State law include provision for: "Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation . . . ."

Section 303(h) of the Federal Unemployment Tax Act defines "compensation" as "cash benefits payable to individuals with respect to their unemployment."

6011 Secretary's Interpretation of Federal Law Requirements. The Secretary interprets the above sections to require that a State law include provisions which will insure that: A. Individuals who may be entitled to unemployment compensation are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the unemployment compensation law of such State, and

B. The State agency obtains and records in time for the prompt determination and review of benefit claims such information as will reasonably assure the payment of benefits to individuals to whom benefits are due.

6012 Criteria for Review of State Law Conformity with Federal Requirements. In determining the conformity of a State law with the above requirements of the Federal Unemployment Tax Act and the Social Security Act as interpreted by the Secretary, the following criteria will be applied:

A. Is it required that individuals who may be entitled to unemployment compensation be furnished such information of their potential rights to benefits, including the manner and place of filing claims, the reasons for determinations, and their rights of appeal, as will assure them a reasonable opportunity to know, establish, and protect their rights under the law of the State?

B. Is the State agency required to obtain, in time for prompt determination of rights to benefits such information as will reasonably assure the payment of benefits to individuals to whom benefits are due?

C. Is the State agency required to keep records of the facts considered in reaching determinations of rights to benefits?

6013 Claim Determinations Requirements Designed To Meet Department of Labor Criteria.

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 assure 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 may not 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 is 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 require-
ment refers to.

3. The information obtained must be suffi-
cient reasonably to insure the payment of benefits when due. In general, the investiga-
tion made by the agency must be complete

**NOTE:** This procedure may be applied to de-
terminations made with respect to any sub-
sequent 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 provi-
sion; and (b) reducing claimant’s weekly ben-
efit amount because of income other than
earnings or offset by reason of overpayment.

2. The agency must include in written no-
tices of determinations furnished to claim-
ants sufficient information to enable them
to understand the determinations, the rea-
sions therefor, and their rights to protest, re-
quest reconsideration, or appeal.

The written notice of monetary determina-
tion 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 con-
tain the information specified in as many of
the following items as are necessary to en-
able the claimant to understand the deter-
mation and to inform him of his appeal
rights. Information specifically applicable to
the individual claimant must be contained in

that written notice of determination need
not 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 by 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 informa-
tion set forth below in paragraph 2 f (1).

However, a written notice of determination
is required if: (a) there is a dispute con-
cerning 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 applica-
tion 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 earn-
ings, if denial or reduction for such subse-
quent 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 with respect to
such first week, and with such notice of de-
termination, he is required to be given a
booklet or pamphlet containing the informa-
tion set forth below in paragraphs 2 f (2) and
2 f (h).

A. Monetary determinations

The agency must give each claimant a
written notice of:

a. Any monetary determination with re-
spect to his benefit year;

b. Any determination with respect to purg-
ing a disqualification if, under the State law,
a condition or qualification must be satisfied
with respect to each week of disqualifica-
tion; 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 application identification card or other-
wise in writing.

c. Any other determination which ad-
versely affects 1 his rights to benefits, except

1 A determination “adversely affects”
claimant’s right to benefits if it (1) results in
a denial to him of benefits (including a can-
cellation 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 wait-
ing week; or (3) applies any disqualification
or penalty; or (4) determines that he has not
satisfied a condition of eligibility, requal-
ification for benefits, or purging a disquali-
fication; or (5) determines that an overpay-
ment has been made or orders repayment or
recoupment of any sum paid to him; or (6)
applies a previously determined overpay-
ment, penalty, or order for repayment or
recoupment; or (7) in any other way denies
claimant a right to benefits under the State
law.

The written notice of monetary determina-
tion 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 con-
tain the information specified in as many of
the following items as are necessary to en-
able the claimant to understand the deter-
mation and to inform him of his appeal
rights. Information specifically applicable to
the individual claimant must be contained in

Employment and Training Administration, Labor
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 deductions, and 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 pamphlet accompanying the notice of 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 is 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 dependents, 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 reason for 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 accompanying the notice 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 the 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.

### 1. Deductions from weekly benefits

#### (1) Earnings.** Although written notice of determinations deducting earnings from a claimant’s weekly benefit amount is generally not required (see paragraph 1(c) above), where written notice of determination is required (or given) it shall set forth the amount of earnings, the method of computing the deduction, and sufficient detail to enable the claimant to verify the accuracy of the deduction, and his right to protest, request redetermination, and appeal. Where a written notice of determination is given to the claimant because there has been a change in the 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 in sufficient 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 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 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 (1) the several kinds of deductions.
which may be made under the 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 any 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 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 of seasonality factors which may affect determinations 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 left your work with Blank Company because 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 is not a sufficiently detailed explanation. However, this statement of the reason for the disqualification need not be a restatement of all facts considered in arriving at the determination.

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

1. (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.)
   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.
   d. That if the information is given in separate material, the notice of determination would adequately refer to such material if it said, for example, “For other information about your (appeal), (protest), (redetermination) rights, see pages (name of pamphlet or booklet) heretofore furnished to you.”

6014 **Separation Information Requirements Designed To Meet Department of Labor Criteria**

A. **Information to agency.** Where workers are separated, employers are required to furnish the agency promptly, either upon agency request or upon such separation, a notice describing the reasons for and the circumstances of the separation and any additional information which might affect a claimant’s right to benefits. Where workers are working less than full time, employers are required to furnish the agency promptly, upon agency request, information concerning a claimant’s hours of work and his wages during the claim periods involved, and other facts which might affect a claimant’s eligibility for benefits during such periods.

When workers are separated and the notices are obtained on a request basis, or when workers are working less than full time and the agency requests information, it is essential to the prompt processing of
claims that the request be sent out promptly after the claim is filed and the employer be given a specific period within which to return the notice, preferably within 2 working days.

When workers are separated and notices are obtained upon separation, it is essential that the employer be required to send the notice to the agency with sufficient promptness to insure that, if a claim is filed, it may be processed promptly. Normally, it is desirable that such a notice be sent to the central office of the agency, since the employer may not know in which local office the worker will file his claim. The usual procedure is for the employer to give the worker a copy of the notice sent by the employer to the agency.

B. Information of worker. 1. Information required to be given. Employers are required to give their employees information and instructions concerning the employees' potential rights to benefits and concerning registration for work and filing claims for benefits.

The information furnished to employees under such a requirement need not be elaborate; it need only be adequate to insure that the worker who is separated or who is working less than full time knows he is potentially eligible for benefits and is informed as to what he is to do or where he is to go to file his claim and register for work. When he files his claim, he can obtain more detailed information.

In States that do not require employers to furnish periodically to the State agency detailed reports of the wages paid to their employees, each employer is required to furnish to his employees information as to (a) the name under which he is registered by the State agency, (b) the address where he maintains his payroll records, and (c) the workers' need for this information if and when they file claims for benefits.

2. Methods for giving information. The information and instructions required above may be given in any of the following ways:

a. Posters prominently displayed in the employer's establishment. The State agency should supply employers with a sufficient number of posters for distribution throughout their places of business and should see that the posters are conspicuously displayed at all times.

b. Leaflets. Leaflets distributed either periodically or at the time of separation or reduction in hours. The State agency should supply employers with a sufficient number of leaflets.

c. Individual notices. Individual notices given to each employee at the time of separation or reduction in hours.

It is recommended that the State agency's publicity program be used to supplement the employer-information requirements. Such a program should stress the availability and location of claim-filing offices and the importance of visiting those offices whenever the worker is unemployed, wishes to apply for benefits, and to seek a job.

6015 Evaluation of Alternative State Provisions with Respect to Claim Determinations and Separation Information. If the State law provisions do not conform to the suggested requirements set forth in sections 6013 and 6014, but the State law contains alternative provisions, the Bureau of Employment Security, in collaboration with the State agency, will study the actual or anticipated effects of the alternative provisions. If the Administrator of the Bureau concludes that the alternative provisions satisfy the criteria in section 6012, he will so notify the State agency. If the Administrator of the Bureau does not so conclude, he will submit the matter to the Secretary. If the Secretary concludes that the alternative provisions satisfy the criteria in section 6012, the State agency will be so notified. If the Secretary concludes that there is a question as to whether the alternative provisions satisfy the criteria, the State agency will be advised that unless the State law provisions are appropriately revised, a notice of hearing will be issued as required by the Code of Federal Regulations, title 20, section 601.5.

[55 FR 559, Jan. 5, 1990]

APPENDIX C TO PART 625—STANDARD FOR FRAUD AND OVERPAYMENT DETECTION

EMPLOYMENT SECURITY MANUAL (PART V, SECTIONS 7510–7515)

7510 Federal Law Requirements. Section 303(a)(1) of the Social Security Act requires that a State law include provision for: “Such methods of administration * * * as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due.”

Section 1603(a)(4) of the Internal Revenue Code and section 3698(a)(5) of the Social Security Act require that a State law include provision for: “Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation * * *”

Section 1607(b) of the Internal Revenue Code defines “compensation” as “cash benefits payable to individuals with respect to their unemployment.”

7511 The Secretary’s Interpretation of Federal Law Requirements. The Secretary of Labor interprets the above sections to require that a State law include provision for such methods of administration as are, within reason, calculated (1) to detect benefits