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Disaster Unemployment Assistance (DUA)

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Summary

Disaster Unemployment Assistance (DUA) provides assistance to previously employed or self-employed individuals rendered unemployed as a direct result of a major disaster and who are not eligible for regular federal/state unemployment insurance (UI). DUA is federally funded through the Federal Emergency Management Agency (FEMA), but is administered by the state UI agencies. This report will be updated as events warrant.

Disaster Unemployment Assistance (DUA)¹ is available only to those individuals who have become unemployed as a direct result of a declared major disaster. The Robert T. Stafford Disaster Relief and Emergency Relief Act (the Stafford Act) authorizes the President to issue a major disaster declaration after state and local government resources have been overwhelmed by a natural catastrophe or, “regardless of cause, any fire, flood, or explosion in any part of the United States” (42 U.S.C. 5122(2)). Based upon the request of the Governor, the President may declare that a major disaster exists and define those areas in the state that are eligible for assistance. The declaration of a major disaster provides the full range of disaster assistance available under the Stafford Act, including, but not limited to, the repair, replacement or reconstruction of public and non-profit facilities; cash grants for personal needs of victims; and unemployment assistance related to the disaster.²

Disaster Unemployment Assistance (DUA) Facts

Disaster Unemployment Assistance (DUA) provides assistance to previously employed or self-employed individuals left jobless as a direct result of a major disaster and who are not eligible for regular federal/state unemployment insurance (UI). The U.S.

¹ Authorization for DUA can be found in the Stafford Act, Section 410, P. L. 100-707, 42 USC 5177. Regulations can be found at 20 CFR 625.

² See CRS Report RL30460, *The Federal Emergency Management Agency: Overview of Funding for Disaster Relief and Other Activities*, by Keith Bea, and *the CRS Electronic Briefing Book on Terrorism*, available at [<http://www.congress.gov/brbk/html/ebter1.shtml>]

Department of Labor's (DOL) Regional Offices oversee the program in coordination with the Federal Emergency Management Agency (FEMA). DUA is wholly federally financed. Funds are provided by FEMA for the payment of DUA benefits and state administration of the program. The state agencies that administer UI also administer DUA.

Eligibility. Unemployed workers are eligible for DUA if, as a direct result of the major disaster, such individual: (a) no longer has a job, or (b) is unable to reach the place of work, or (c) was to commence work and does not have a job or is unable to reach the job, or (d) has become the sole breadwinner or major support for the household because the head of household dies,³ or (f) cannot work because of a disaster-incurred injury. Self-employed individuals are eligible for DUA if, as a direct result of the major disaster, such individual: (a) no longer can perform regular services in self-employment; or (b) is unable to reach the place where self-employment services are performed; or (c) was to commence regular service in self-employment but does not have a place to perform services; or (d) is unable to reach the place where services are performed; or (e) cannot perform services because of a disaster-incurred injury. DUA is available only to those individuals who are not eligible for regular federal/state UI benefits. Undocumented workers are not eligible for DUA. Individuals must have a social security number and an alien registration card number to apply for DUA.⁴

For each week of unemployment, individuals receiving DUA must meet the work requirements of the state UI program under which the individual must be able to work, available for work and willing to work. Individuals injured as a result of the major disaster are considered to meet the state's work requirements. DUA is only payable for those weeks of unemployment during the disaster assistance period that continue to be a direct result of the major disaster.

Eligibility Clarification. On November 13, 2001, the Department of Labor issued a new interpretive rule clarifying the definition of the phrase "unemployment as a direct result of the major disaster." DOL felt compelled to issue this clarifying rule because the nature of the September 11, 2001 disasters were so catastrophic, that they presented a number of exigencies not anticipated by the existing regulations. This action by DOL amends 20 CFR §625.5 by adding a new paragraph (c) to read as follows:

§625.5 Unemployment caused by a major disaster.

(c) *Unemployment is a direct result of the major disaster.* For the purposes of paragraphs (a)(1) and (b)(1) of this section, a worker's or self employed individual's unemployment is a direct result of the major disaster where the unemployment is an immediate result of the major disaster itself, and not the result of a longer chain of events precipitated or exacerbated by the disaster. Such an individual's unemployment is a direct result of the major disaster if the unemployment resulted from:

- (1) the physical damage or destruction of the place of employment;
- (2) the physical inaccessibility of the place of employment due to its closure by the federal government, in immediate response to the disaster; or

³ The survivor who becomes the breadwinner is not required to have wage credits and could be eligible for DUA even if the deceased would have been eligible for UI.

⁴ See, *Disaster Unemployment Assistance*, Office of New York State Attorney General, at [http://www.oag.state.ny.us/wtc/disaster_unemployment_assistance.html]

(3) lack of work, or loss of revenues, provided that, prior to the disaster, the employer, or the business in the case of a self-employed individual, received at least a majority of its revenue or income from an entity that was either damaged or destroyed in the disaster, or an entity closed by the federal government in immediate response to the disaster.⁵

Prior to the construction of this new rule, the phrase “unemployed as a result of a major disaster” had never been defined in the regulations. Though DOL has issued the new clarifying rule in the wake of the September 11, 2001 disasters, the rule will apply equally to any subsequently declared major disasters. The rule is intended to make clear a distinction between those individuals unemployed as an immediate result of the disaster itself, and those whose unemployment may have been caused by a long chain of events initiated by the disaster. The rule is also intended to exclude those individuals whose unemployment is the result of general economic decline that has been an indirect effect of a major disaster.

DOL has provided several examples of groups or individuals that may or may not be eligible under the new rule. Employees and self-employed individuals at Reagan National Airport are potentially eligible for DUA because the federal government closed the facility for an extended period of time, as a direct result of the major disaster. Other examples include employed or self-employed individuals at the Jacob Javits Center and Pier 94 in New York City, because FEMA took over these facilities for disaster administration activities. Also potentially eligible for DUA are workers or self-employed individuals whose unemployment was caused by the physical damage or destruction of an entity, which prior to the disaster provided at least a majority of employer’s or self-employed individual’s income or revenue. This category includes employees of suppliers of goods or services to any of the damaged or destroyed firms in the World Trade Center or Pentagon disaster areas. Another potentially eligible group is taxi drivers who can demonstrate that at least a majority of their business depended upon providing services between points within the disaster areas, to facilities closed due to damage, or facilities taken over by the federal government.

Weekly Assistance Amounts and Duration of Benefits. DUA weekly benefits are calculated with the same formula used to determine weekly UI benefits under the state’s regular UI program. The maximum DUA weekly benefit amount is equal to the maximum weekly benefit amount for a state’s regular UI program. The minimum DUA weekly benefit amount is equal to 50% of a state’s regular UI weekly benefit. The weekly DUA amount may be reduced due to the receipt of other income or wages earned or received during a week. The following items will reduce the weekly DUA benefit amount:

1. Any benefit or insurance proceeds for loss of wages due to illness or disability;
2. A supplemental unemployment benefit pursuant to a collective bargaining agreement;
3. Private income protection insurance;
4. Any workers compensation by virtue of the death of the head of household as a direct result of the major disaster, prorated by weeks;

⁵ See, U.S. *Federal Register*, v. 66, no. 219, Tuesday, November 13, 2001, Rules and Regulations. p. 56960-56962.

5. The prorated amount of the proceeds from any retirement plan or system to the same extent that such amount would be deducted from regular unemployment insurance benefits under the UI law;
6. Deductions for employment during the benefit receipt period will be made under the same conditions as under the UI law, one-quarter reduction for each day worked. No DUA is payable if the applicant earned in excess of \$405 (in New York State) in a week; and
7. Deductions for child support mandated by court order.⁶

Unemployed workers could also be eligible for reemployment services, that could include counseling, and referrals to suitable work opportunities. DUA assistance is available to eligible individuals as long as the major disaster continues but no longer than 26 weeks after the disaster declaration.

September 11, 2001 DUA Information. On September 11, 2001, President Bush declared five New York counties (Bronx, New York, Kings, Queens, Richmond) ‘major disaster’ areas following the destruction of the World Trade Center in New York City. On September 27, 2001, the disaster declaration was extended to include Delaware, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster and Westchester counties as eligible for individual assistance. For the state of New York, the minimum DUA weekly benefit amount is \$126, and the maximum weekly benefit amount is \$405. Though originally declared an emergency, Arlington County, Virginia was declared a major disaster on September 20, 2001. This allowed the full range of disaster assistance (including DUA) to be made available to the victims of the Pentagon attack.

Individuals seeking general help regarding victim benefits and assistance (including DUA), can consult FEMA’s web site at [http://www.fema.gov/nwz01/nwz01_117a.htm]. This site can also be reached through FEMA’s main site at [<http://www.fema.gov>]. More specific information regarding the DUA application process in New York can be found at the New York State Department of Transportation’s website at [<http://labor.state.ny.us>] or by calling 1-888-209-8124. Individuals seeking assistance with DUA related to the Pentagon attack, should contact their local unemployment office, or 1-877-872-5627.

Legislative Developments. On March 20, 2002, Congress passed H.R. 3986, a bill extending the duration of DUA benefits from 26 to 39 weeks. This 13-week extension only applies to the victims of the September 11, 2001 terrorist attacks in the declared major disaster areas in New York and Virginia. This extension will not apply to any subsequent major disasters.

⁶ U.S. Department of Labor. New York State. *DUA-Disaster Unemployment Assistance Information World Trade Center Disaster-September 2001*. [<http://www.labor.state.ny.us/pdf/dua.pdf>].