The Impact of Sequestration on Unemployment Insurance Benefits: Frequently Asked Questions

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Summary

"Sequestration" refers to a process of automatic, largely across-the-board spending reductions under which budgetary resources are permanently canceled to enforce certain budget policy goals. Most recently, sequestration was triggered by the Budget Control Act of 2011 (BCA; P.L. 112-25) and implemented on March 1, 2013 (delayed by P.L. 112-240).

Some, but not all, types of unemployment insurance (UI) benefits are subject to reductions under the BCA sequester. Regular Unemployment Compensation (UC), Unemployment Compensation for Ex-Servicemembers (UCX), and Unemployment Compensation for Federal Employees (UCFE) benefits are specifically exempt from the sequester reductions. UI payments from the Extended Benefit (EB) and Emergency Unemployment Compensation (EUC08) programs, however, are subject to the sequester reductions. States administer all types of UI benefits. Therefore, states are responsible for carrying out the sequester reduction in UI benefit payments. The amount and method by which a UI recipient's benefit is reduced varies by the state and by the date when the reduction begins.

This report provides brief answers to some frequently asked questions regarding sequestration and unemployment insurance benefits.

Additional information on UI programs and benefits is available in CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs; and CRS Report R42444, *Emergency Unemployment Compensation (EUC08): Current Status of Benefits*, by Julie M. Whittaker and Katelin P. Isaacs.

Additional information on modifications to UI programs and benefits as a result of recent changes to state laws is available in CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

More general information on the sequester is available in CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

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What Is the Sequester?

"Sequestration" is a process of automatic, largely across-the-board spending reductions under which budgetary resources are permanently canceled to enforce certain budget policy goals.[1] It was first authorized by the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA, Title II of P.L. 99-177, commonly known as the Gramm-Rudman-Hollings Act).

Currently, sequestration is being used as an enforcement tool under the Budget Control Act of 2011 (BCA, P.L. 112-25). Because of the lack of congressional action by January 15, 2012, to reduce the deficit by at least $1.2 trillion, a series of automatic spending reductions has been triggered. The reductions take the form of the sequestration of mandatory spending in each of FY2013-FY2021, a one-year sequestration of discretionary spending for FY2013, and lower discretionary spending limits for each of FY2014-FY2021.

Certain federal programs are exempt from sequestration, and special rules govern the effects of sequestration on other programs. Most of these provisions are found in Sections 255 and 256 of BBEDCA, as amended.

Which Types of Unemployment Insurance Benefits Are Affected by the Sequester?

Sequestration required by the BCA (P.L. 112-25) and implemented on March 1, 2013 (delayed by P.L. 112-240), affects some but not all types of unemployment insurance (UI) benefits. Benefits from the regular Unemployment Compensation (UC), Unemployment Compensation for Ex-Servicemembers (UCX), and Unemployment Compensation for Federal Employees (UCFE) programs are exempt and not subject to the sequester reductions.[2] Extended Benefits (EB) and Emergency Unemployment Compensation (EUC08)—as well as most forms of UI administrative funding—are not exempt from the sequester, however; and, therefore, are subject to the sequester reductions.

The U.S. Department of Labor (DOL) has released details on how the UI BCA sequester reductions should occur.[3] This DOL guidance outlines how states, which administer UI benefits, must reduce all EB and EUC08 benefits, with the exact percentage dependent upon the start date of the reductions.

[1] For more information on the budget sequestration, see CRS Report R42050, *Budget "Sequestration" and Selected Program Exemptions and Special Rules*, coordinated by Karen Spar.

[2] Section 256(h) of P.L. 99-177.

[3] Employment and Training Administration, U.S. Department of Labor, *Unemployment Insurance Program Letter (UIPL) 13-13*, March 8, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_13_013_Acc.pdf.

What Are the Consequences of the Sequester for Non-Exempt UI Benefits in FY2013?

The sequestration percentage reductions in **Table 1** apply to the budgetary resources provided for all of FY2013 (October 1, 2012, through September 30, 2013). But the actual UI payment reductions began to be implemented by states the week beginning March 31, 2013. No EB or EUC08 benefits already paid to individuals will be recovered to satisfy the sequestration reductions.

The Office of Management and Budget's BCA sequester order requires a 5.1% reduction to be applied on all nonexempt nondefense mandatory expenditures for FY2013.[4] Thus, according to DOL guidance, EUC08 and EB payments would be reduced by 10.7% for benefits paid for weeks of unemployment beginning on March 31, 2013, in order to meet the 5.1% reduction target for FY2013. Higher percentage reductions in EB and EUC08 benefits would be associated with later dates of state implementation of the UI sequester.

Table 1 provides the schedule of benefit reductions for FY2013 if states implemented the reductions later than March 31, 2013.

Table 1. Sequester-Based Reductions in Emergency Unemployment Compensation (EUC08) and Extended Benefits (EB) for FY2013

For the week beginning on or after	Percent reduction
March 31, 2013	10.7%
April 30, 2013	12.8%
May 31, 2013	16.8%
June 30, 2013	22.2%

Source: Employment and Training Administration, U.S. Department of Labor, Unemployment Insurance Program Letter (UIPL) 13-13, March 8, 2013, http://wdr.doleta.gov/directives/attach/UIPL/UIPL_13_013_Acc.pdf.

Note: These reductions assume that all EUC08 and EB payments would be reduced uniformly and at the same time. If alternative methods for implementing the sequester are deployed, the reduction may be different.

How Are States Implementing the Sequester of UI Benefits in FY2013?

As of the week of June 30, 2013, EB was not available in any state. The only state where EB benefits were payable earlier in calendar year 2013 was Alaska, which ended its EB period at the beginning of May 2013.[5] Therefore, states are currently responsible for implementing the

[4] Office of Management and Budget, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, Washington, DC, March 1, 2013, http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf.

[5] See Employment and Training Administration, U.S. Department of Labor, Unemployment Insurance Trigger Notice No. 2013-24, State Extended Benefit (EB) Indicators Under P.L. 112-240, Washington, DC, June 30, 2013, (continued...)

sequester of EUC08 benefits only. Since March 31, 2013, nearly all states, including the District of Columbia, have implemented cuts to EUC08 benefits.[6] According to the National Association of State Workforce Agencies (NASWA), of the 52 states and territories that responded to a recent survey,[7]

- 19 states implemented cuts of 10.7% on March 31, 2013;
- 9 states implemented cuts by April 30, 2013;
- 14 states implemented cuts by May 31, 2013;
- 8 states plan to implement cuts by June 30, 2013; and
- 1 state plans to implement cuts by August 31, 2013.

Additionally, NASWA reports that North Carolina will not implement the sequester reduction since the EUC08 program in that state will no longer meet the federal requirements to offer EUC08 to its workers as of July 2013.[8]

Not all states have implemented the sequestration reductions uniformly across all EUC08 beneficiaries. Several states were unable to implement the preferred method of reduction as outlined by the U.S. DOL. Among these states, there are three alternative methods being used: (1) paused-week, (2) grandfathering, and (3) reduction of weeks within a tier.

1. *Paused-Week*: States schedule two to three weeks during which no EUC08 benefits are paid. The remaining weeks of EUC08 are still paid. For example, South Carolina will not pay EUC08 benefits for the weeks ending on May 18, July 13, and August 31, 2013.[9]
2. *Grandfathering*: The sequester cuts apply only to claimants entering a new EUC08 tier. For example, in California the 17.69% cut will not impact anyone collecting EUC08 on an existing tier filed with an effective date before April 28, 2013. Instead, the sequester reduction is implemented when an individual ends that current tier and becomes eligible to receive benefits on the next EUC08 tier filed with an effective date of April 28, 2013, or after.[10]
3. *Reduction of Weeks in EUC08 Tiers*: The state reduces the number of weeks available in each tier of EUC08, but does not reduce the weekly benefit paid. For

(...continued)

http://www.workforcesecurity.doleta.gov/unemploy/trigger/2013/trig_063013.html.

[6] The District of Columbia, Puerto Rico, and the Virgin Islands are considered to be "states" under UI law. Therefore, there are 53 different states and territories that must administer the UI sequester.

[7] National Association of State Workforce Agencies, *NASWA Survey Shows Majority of States Have Implemented EUC08 Sequestration Cuts*, June 14, 2013, http://www.naswa.org/assets/utilities/serve.cfm?gid=073c1905-b9cf-4e89-b09e-ed1ce21fb5ac.

[8] For more details on the changes to NC state law that end EUC08 availability in that state, see CRS Report R41859, *Unemployment Insurance: Consequences of Changes in State Unemployment Compensation Laws*, by Katelin P. Isaacs.

[9] See the South Carolina notice at http://www.dew.sc.gov/claim-euc.asp.

[10] See the California notice at http://www.edd.ca.gov/unemployment/Sequestration_Reduction_Calculator.htm.

> example, Maine has opted to stop paying the last eight weeks of tier III EUC08 benefits, leaving one remaining week available.[11]

For more specific information on state implementation of the UI sequester, links to state workforce agency websites are available through the U.S. Department of Labor's America's Service Locator at http://www.servicelocator.org/OWSLinks.asp.

Has There Been Any Legislation Proposed to End the UI Sequester?

H.R. 2177, the Unemployment Restoration Act, would make both EB and EUC08 exempt from sequestration. This exemption would be retroactive and would continue through FY2021. Any reduction of UI payments made because of the sequester would be paid back retroactively.

Do Federal Employees Furloughed by the Sequester Have Access to UI Benefits?

Due to the required reductions in agency spending under the sequester, federal agencies may furlough some or all of their employees for a period of time. The Office of Personnel Management (OPM) states:

> An administrative furlough is a planned event by an agency which is designed to absorb reductions necessitated by downsizing, reduced funding, lack of work, or any budget situation other than a lapse in appropriations. Furloughs that would potentially result from sequestration would generally be considered administrative furloughs.[12]

In the event of a furlough, federal employees may become eligible for UI benefits through the Unemployment Compensation for Federal Employees (UCFE) program. Under federal law, UCFE provides income support for laid-off or furloughed federal employees in the same way as under the UC program for other types of workers. Eligibility—as well as benefit levels and the waiting period for benefits—under UCFE are determined according to the state laws of the UC program in the state where the federal employee's official duty station was located.[13] As with UC, separated federal employees, including furloughed employees, must have earned a certain amount of wages or have worked for a certain period of time (or both) within the previous 12-18 months to be monetarily eligible to receive any UI benefits (although methods that states use to determine this eligibility vary greatly).

Thus, whether or not a furloughed federal employee may be eligible for UCFE will depend on relevant state UC laws. In particular, two key state law issues factor into this type of UCFE

[11] See the Maine notice at http://www.maine.gov/tools/whatsnew/index.php?topic=Portal+News&id=520161&v=article-2011.

[12] Office of Personnel Management, *Pay & Leave: Furlough Guidance*, http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/#url=Administrative-Furlough.

[13] See 5 U.S.C. §§8502 and 8504.

eligibility decision: (1) the state definition of "partial unemployment" and (2) whether or not there is a "waiting week" required under state law.

First, because UI benefits are designed to provide temporary income support to the involuntarily *unemployed*, a furloughed federal employee must meet the relevant state definition of unemployment. The UI system permits benefit receipt in certain circumstance of reduced work hours or short-term reemployment—primarily in order not to discourage work or reemployment. Therefore, each state has its own laws regarding how much work may be performed without making an individual ineligible for UI benefits, that is, partial unemployment. Under state laws, an individual is generally considered to be partially unemployed in any week with less than full-time work and with earnings of less than the weekly benefit amount, or the weekly benefit amount plus an allowance.[14] For instance, in the District of Columbia, an individual is considered partially unemployed if he or she has earnings that are less than the individual's weekly benefit amount plus $20.[15] Furloughed individuals must meet the state definition of partial unemployment in order to be potentially eligible for UC or UCFE benefits.

Second, most states require that eligible individuals first serve a waiting week before receiving any UI benefits. For instance, the District of Columbia and Virginia have a waiting week requirement of one week. Maryland has no waiting week requirement.[16] In states with a waiting week requirement, an individual's furlough days would need to be spread out across more than one week of unemployment. That is, an individual would need to meet the state's definition of unemployment—including partial unemployment—in more than one week (i.e., the waiting week plus an additional week) in order to be eligible for UI benefits.

For additional guidance on furloughed federal employees and UCFE, see:

- U.S. DOL, "Information for Furloughed Federal Workers," available at http://www.dol.gov/sequestration/ui-federalemployees.htm; and
- OPM, "Guidance for Administrative Furloughs," June 10, 2013, p. 18 (H.1.), available at http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/guidance-for-administrative-furloughs.pdf.

[14] The weekly benefit amount (WBA) is determined under state law and is generally based on wages for covered work over a 12-month period. Most state benefit formulas replace half of a claimant's average weekly wage up to a weekly maximum. For additional details on the WBA, including average WBAs across states, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*.

[15] For information on state definitions of partial unemployment, see Table 3-8 in U.S. Department of Labor, *Comparison of State Unemployment Insurance Laws*, 2013, pp. 18-20, http://www.workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2013/monetary.pdf.

[16] For information on state waiting week requirements, see Table 3-7 in U.S. Department of Labor, *Comparison of State Unemployment Insurance Laws*, 2013, pp. 15-17, http://www.workforcesecurity.doleta.gov/unemploy/pdf/uilawcompar/2013/monetary.pdf.

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