Financial Officer, telephone no. 202–219–6891.

Signed at Washington, DC, this 26th day of March, 1998.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 98–9829 Filed 4–13–98; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letter Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 18–98

The Department of Labor (DOL) has noticed that some States treat the ''between seasons'' denial involving athletic services in the same manner as the ''between and within terms'' denial involving educational services. UIPL 18–98 explains the differences between these two sections of the Federal Unemployment Tax Act (FUTA) and advises the States of DOL's position on when UC is payable on athletic services.

Under the between seasons denial provision, DOL interpreted FUTA as requiring States to deny UC to athletes on the basis of any services where ''substantially all'' of the services performed by the individual during the base period are based on athletically-related services. If ''substantially all'' of the services have been performed in athletics, and a reasonable assurance of participating in athletics in the later season exists, then none of the wages may be used to establish eligibility and all UC must be denied. Conversely, if the ''substantially all'' test has not been met, the use of all wages for both athletic services and other services, is permissible to determine eligibility for UC. Under the between and within terms denial provision, DOL interpreted FUTA as requiring that UC not be paid based on certain educational services between and within academic periods under certain conditions. The denial requirement under this provision of FUTA pertains only to UC based on educational, and not athletic, services.

Dated: April 8, 1998.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration, Washington, D.C. 20210

CLASSIFICATION: UI
CORRESPONDENCE SYMBOL: TEUL
DATE: March 30, 1998
DIRECTIVE: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 18–98
TO: ALL STATE EMPLOYMENT SECURITY AGENCIES
FROM: GRACE A. KILBANE, Director, Unemployment Insurance Service
SUBJECT: Use of Services Performed by Professional Athletes Between Seasons

1. *Purpose.* To remind States of the Department of Labor's (DOL's) position concerning how services performed by professional athletes (''athletes'') are used in determining eligibility for unemployment compensation (UC).

2. *References.* Section 3304(a), Federal Unemployment Tax Act (FUTA); Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94–566 (''1976 Draft Language'') and Supplements 1–5; Employment and Training Administration (ETA) Handbook 301; Unemployment Insurance Program Letter (UIPL) No. 43–80, dated May 23, 1980.

3. *Background.* As a result of implementing its new method of measuring nonmonetary performance, DOL has discovered that some States treat the ''between seasons'' denial involving athletic services in the same manner as the ''between and within terms'' denial involving educational services. Although there are similarities in the language of these laws, the applications are different. As a result, DOL is issuing this UIPL to remind the States of its position on when UC is not payable on athletic services and to explain the differences between the two sections.

4. *The Between Seasons Denial.* Section 3304(a)(13), FUTA, requires, as a condition of employers in a State receiving credit against the Federal unemployment tax, that—

Compensation shall not be payable to any individual *on the basis of any services,* substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods). [Emphasis added.]

The Department, thus, interpreted FUTA as requiring States to deny UC to athletes on the basis of *any* services where ''substantially all'' of the services performed by the individual during the base period are based on athletically-related services. (See page 22, of Supplement 1, to the 1976 Draft Language.) To determine whether ''substantially all'' of the services were athletically-related, all services (athletic and non-athletic) must be considered together. If ''substantially all'' of the services have been performed in athletics, and a reasonable assurance that the individual will participate in athletics in the later season exists, then none of the wages may be used to establish eligibility, and all UC must be denied. Conversely, if the ''substantially all'' test has not been met, then FUTA permits the use of all wages to determine eligibility for UC.

Concerning what constitutes ''substantially all,'' DOL has previously stated that, at a minimum, ''an individual shall be deemed to have performed substantially all services in such sports or athletic events if the individual engaged in such sports or athletic events for 90 percent or more of the total time spent in the base period in the performance of all covered services.'' (See page 22, of Supplement 1, to the 1976 Draft Language.)

The definition of ''substantially all'' as 90 percent as a basis for denial of athletic services under Section 3304(a)(13), FUTA, is a minimum requirement. FUTA does not prohibit a more stringent denial. Therefore, a State may enact a law to deny benefits between seasons if the amount of time spent in athletic services was less than 90 percent of the total time spent in the performance of all services in the base period. (1976 Draft Language, Supplement 4, page 11.) For example, a State may choose to deny an athlete if only 80 percent or more of the total time in the base period was spent participating in athletic services.

Finally, a State may also deny benefits to athletes between sport seasons where there is no reasonable assurance.

5. *The Between and Within Terms Denial.* Section 3304(a)(6)(A), FUTA, requires that UC not be paid based on certain educational services between and within periods under certain conditions. This denial pertains only to UC based on educational services. It does not apply to UC based on any other covered employment.

As noted in UIPL 34–80, ''since compensation is based only on base period employment, the denial must apply only to the amount of benefits based on school service performed in the base period. An individual who has participated in the labor force in a capacity other than as a school employee cannot be denied benefit entitlement based on the non-school work simply because of also being a school employee.''

Thus, an unemployed individual who performed services for an educational employer and also performed services for a non-educational employer could receive reduced UC during the summer based on the non-educational employment (even if a reasonable assurance of school employment in the next school term exists). The denial would apply only to that portion of benefits based on educational employment during the base period.

Also, unlike the athletic services provision, the States may not apply a stricter denial to educational services.

6. *Reasonable Assurance.* Reasonable assurance in the ''between seasons'' denial for athletic services is used in a different manner than in the ''between and within terms'' denial for educational services. For the professional athlete, a mere indication of his/her intent to participate in the subsequent sports season without any verification from any sports organization can constitute ''reasonable assurance.'' (See page 56, of the 1976 Draft Language.) However, the term ''reasonable assurance,'' as it applies to educational employees under the ''between and within terms'' denial, must be verified by the educational institution before it can be established as a fact. (See page 54, of the 1976 Draft Language and page 17, Supplement 1, to the 1976 Draft Language).

7. *Action Required.* Administrators are to provide this information to appropriate staff.

8. *Inquiries.* Inquiries should be directed to the appropriate Regional Office.

[FR Doc. 98–9830 Filed 4–13–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed revision collection of FECA Medical Report Forms: CA–7, CA–8, CA–16b, CA–20, CA–20a, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, CA–1336, OWCP–5a, OWCP–5b, and OWCP–5c. Copies of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSEE** section below on or before June 15, 1998. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Contact Ms. Patricia Forkel at the U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601. The Fax number is (202) 219–6592. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Statute 5 U.S.C. 8101 *et seq.* of the Federal Employees' Compensation Act provides for the payment of benefits for wage loss and/or for permanent payment to a scheduled member, arising out of a work related injury or disease. The CA–7 and CA–8 request information allowing the Office of Workers' Compensation Programs to fulfill its statutory requirements for the period of compensation claimed (e.g., the pay rate, dependents, earnings, dual benefits, and third party information). The other forms in this proposed revision collection collect medical information necessary to determine entitlements to benefits.

II. Current Actions

The Department of Labor (DOL) seeks approval of the revision of this information collection to collect information in order to carry out its responsibility to determine eligibility for and the compensation of benefits. For ease of completion, the CA–8 has been eliminated and the CA–7 has been extensively revised to combine all elements from the CA–8. The CA–20a has been eliminated; former respondents to the CA–20a will now complete the CA–20. All other forms remain unchanged.

Type of Review: Revision.

Agency: Employment Standards Administration.

Title: FECA Medical Report Forms.

OMB Number: 1215–0103.

Agency Numbers: CA–7, CA–16b, CA–17b, CA–20, CA–1090, CA–1303, CA–1305, CA–1306, CA–1314, CA–1316, CA–1331, CA–1332, CA–1336, OWCP–5a, OWCP–5b, OWCP–5c.

Affected Public: Business or other for-profit; Federal Government; individuals or households.

Total Respondents: 441,855.

Frequency: As needed.

Total Responses: 441,855.

Estimated Total Burden Hours: 43,414.

Form	Respondents	Responses	Average minutes per response	Burden hours
CA–7	400	400	13	87
CA–16b	157,000	157,000	5	13,083
CA–17b	134,000	134,000	5	11,167
CA–20	112,000	112,000	5	9,333
CA–1090	800	800	5	67
CA–1303	4,000	4,000	20	1,333
CA–1305	80	80	20	27
CA–1306	25	25	10	4
CA–1314	1,200	1,200	20	400
CA–1316	1,100	1,100	10	183
CA–1331	750	750	5	63
CA–1332	1,500	1,500	30	750
CA–1336	2,000	2,000	5	167