

CRS Report for Congress

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Military Service and Unemployment Compensation (Insurance)

Julie M. Whittaker
Analyst in Applied Microeconomics
Domestic Social Policy Division

Summary

The Unemployment Compensation (UC) program contains several provisions relevant for current and former military service personnel and their families. The UC program does not provide benefits for military servicemembers on active duty. However, former active duty personnel (and certain reservists) separated from active duty may be eligible for Unemployment Compensation for Ex-military service members (UCX). Spouses of military service personnel who voluntarily quit a job in order to accompany their spouses on account of a military transfer may be eligible for UC benefits, based on the laws of the state where the civilian spouse was employed. At least one state provides unemployment tax relief for business owners that are members of the reserves and are called to active duty, resulting in a lay-off for their employees. This report will be updated as events warrant.

Unemployment Compensation Benefit Eligibility for Former Military Personnel. Military personnel on active duty do not qualify for UC¹ benefits; however, members who have been separated from active duty may be eligible for a targeted program, UCX.²

The Emergency Unemployment Compensation Act of 1991 (P.L. 102-164) provides that ex-servicemembers be treated the same as other unemployed workers with respect to the waiting period for benefits and benefit duration.³ UCX provides UC benefits while

¹ In law, this program is called the Unemployment Compensation program. However, it is commonly referred to as the Unemployment Insurance program, reflecting its social insurance design.

² Established by the Ex-servicemen's Unemployment Act of 1958 (P.L. 85-848) in 1958. USC Title 20 — Chapter V — Part 614.

³ In 1982, Congress had placed restrictions on benefits for ex-servicemembers (P.L. 97-362), so that the maximum number of weeks of benefits an ex-servicemember could receive based on (continued...)

former active duty military personnel or reservists⁴ released from active duty search for work.

The UCX benefit is provided by the federal government through the state programs. Each state is reimbursed by the federal government for each unemployed worker whose base period wages included federal military wages. UC eligibility criteria and benefits will vary by state. Because ex-military servicemembers apply for benefits in the state where they are searching for employment, they must meet the same criteria that civilian workers are required to meet. Their equivalent military wages and service are used to determine eligibility and benefit levels.⁵ Thus, two ex-servicemembers with the same earnings and work history may qualify for different amounts of benefits if they file for UCX in different states.

If the ex-servicemember was originally in the active duty military, he or she must have left military service under honorable conditions and either completed a full term of service or have been released early under a qualifying reason. If the ex-servicemember was a reservist formerly on active duty, he or she must have been on active duty for at least 90 continuous days. UCX benefits are not payable during periods in which the ex-service member is eligible to receive certain allowances or educational assistance allowances from the Survivors' and Dependents' Educational Assistance Program or the Department of Veterans' Affairs Vocational Rehabilitation and Education Program. Participation in the Montgomery GI bill does not preclude receipt of UCX benefits; however, having student status does limit UC benefit eligibility in most states and these limitations would extend to those workers receiving UCX benefits. Many states exclude workers while they attend school and some states include vacation periods in that exclusion.

Civilian Spouse Voluntary Quit UC Benefit Eligibility. Generally, state UC programs do not award UC benefits to workers who quit their jobs because a spouse was

³ (...continued)

employment in the military was 13 (as compared to 26 weeks under the regular UC program for civilian workers). In addition to a number of restrictive eligibility requirements, ex-servicemembers had to wait four weeks from the date of their separation from the service before they could receive benefits.

⁴ In this report the terms "reserves" or "reservists" include the Army and Air National Guard and their members.

⁵ The state in which the former service member files for a claim determines the UC benefit level and duration. The weekly and maximum amounts of UCX payable to an individual under the UCX program is determined under the applicable state law to be in the same amount, on the same terms, and subject to the same conditions as the state UC which would be payable to the individual under the applicable state law if the individual's federal military service and federal military wages assigned or transferred under this part to the state had been included as employment and wages covered by that state law, subject to the use of the applicable Schedule of Remuneration. That is, for claims purposes, military wages are determined by the pay grade at separation from military service. A wage table provided by the federal government and then is equated to civilian wages for each military pay grade.

transferred.⁶ **Table 1** lists the nine states that allow workers who quit because of their spouse’s job transfer to receive UC benefits. State UC programs often treat workers who quit to join spouses as “voluntary quits” and the worker is disqualified from immediately receiving benefits. The laws of several states — Colorado, Maryland, Massachusetts, Ohio, Texas, Utah, and Virginia — include a specific disqualification for claimants who quit work to relocate with a spouse.

In several states, the disqualification following a “voluntary quit” continues until the claimant returns to work, completes a specified duration of work, and earns wages of a specified amount. In other states, the disqualification is time-limited. These states penalize the worker for quitting, but recognize that economic conditions may be such that even a person who diligently seeks work may find none. The reasoning is that beyond a certain point, if a diligent job seeker is still unemployed, such continuing unemployment is attributable to labor market conditions, rather than their decision to quit. Thus, spouses relocating to areas of high unemployment or limited opportunities may become eligible for benefits, even if initially disqualified. For example, in Texas, the disqualification is limited to 6-25 weeks; and, in West Virginia they must find work in insured employment for 30 days and then become involuntarily unemployed, at which time the disqualification will be lifted.

Military Spouse Exception. In addition to the eight states allowing UC benefits if a worker quits to accompany a spouse’s transfer, seven states have special exceptions for workers who quit to join their transferred military spouse. Thus, a total of 15 states allow the civilian spouse of a transferred military servicemember to receive UC benefits. These exceptions are shown in **Table 1**.

Table 1. Unemployment Compensation Benefit Eligibility for Workers Who Voluntarily Quit on Account of a Spousal Transfer

State	Spouse Transfer	Military Spouse Transfer
Alabama		
Alaska		X
Arizona		
Arkansas		
California	X	
Colorado		
Connecticut		
Delaware		
DC		
Florida		X
Georgia		
Hawaii		

⁶The Keep America Working Act of 2003 (H.R. 1802) was introduced Apr. 23, 2003. It proposed permitting unemployment compensation where separation from work was due to a spouse or domestic partner’s change in residence.

State	Spouse Transfer	Military Spouse Transfer
Idaho		
Illinois		
Indiana	X	
Iowa		
Kansas	X	
Kentucky		
Louisiana		
Maine	X	
Maryland		
Massachusetts		
Michigan		
Minnesota		
Mississippi		X
Missouri		
Montana		
Nebraska		
Nevada		X
New Hampshire		
New Jersey	X	
New Mexico		X
New York	X	
North Carolina		X
North Dakota		
Ohio		
Oklahoma		
Oregon	X	
Pennsylvania	X	
Rhode Island	X ^a	
South Carolina		
South Dakota		
Tennessee		
Texas		
Utah		
Vermont		
Virginia		
Washington		X
West Virginia		
Wisconsin		
Wyoming		

Source: CRS compilation from *Comparison of State Unemployment Insurance Laws, 2004* U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security.

a. In Rhode Island there is a limited disqualification if the move is due to the spouse retiring.

Self-Employed and Sole-Proprietors on Active Duty and UC Taxes. Self-employed persons and sole-proprietors are excluded from receiving UC benefits. However, unemployment taxes are levied on employers based on a combination of established rates and the employer's past history of its workers using the UC system. Generally, employers that have a greater history of unemployed workers would have a worse experience rating and would pay higher UC taxes. For example, a business owner, if called up for active military service, may need to lay-off some or all of the business's workers. Once the business owner returns from military service, the revival of the business may mean that the small business may face a new, higher state unemployment tax rate.

States may choose to create a provision that removes or limits this tax increase in certain situations. For example:

- In Illinois, business owners who are called to active duty from the reserve and had to close their firms, are not charged for the increases in unemployment compensation benefits for the workers who lose their jobs. When the business owner returns and reopens his or her business, the business's unemployment insurance rate is not increased.
- Wisconsin prevents sudden increases of rates for individual employers for any reason by limiting an employer's rate increase in any year to no more than two percentage points more than the previous rate.
- In Oklahoma for employers with rates of 3.4% or more, the limitation on the rate increase is two percentage points in any year. For employers with rates below 3.4%, their rate may not be increased to more than 5.4% in any year.
- In Texas if an employee was called to active military service, but then qualifies for UC benefits, the employer does not face a higher state unemployment tax rate.