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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D C 20548

DEC 31 1974

MANPOWER AND WELFARE
DIVISION

Mr. Fred G. Clark
Assistant Secretary for
Administration and Management
Department of Labor

DLG 01633

Dear Mr. Clark.

We have made a survey of selected aspects of the administration of Federal unemployment compensation benefits in Pennsylvania resulting from the effects of Tropical Storm Agnes which struck Pennsylvania and other Eastern States in June 1972. Disaster unemployment assistance benefits of approximately \$8.6 million were paid to about 33,000 claimants in Pennsylvania. Such assistance was provided under authority of the Disaster Relief Act of 1970 (42 U.S.C. 4401 et seq.).

Unemployment compensation was provided also to terminated Federal employees who were hired temporarily to assist in the Agnes recovery program in Pennsylvania. We estimate that over 650 such persons received benefit payments totaling about \$778,000 for claims filed during the first 9-months of 1973. Such benefits were provided under authority of the Social Security Act (5 U.S.C. 8501 et seq.).

Benefit payments were made by the Bureau of Employment Security, Pennsylvania Department of Labor and Industry, through arrangements with the Department of Labor.

Our work was directed primarily to determining whether assistance was provided only to eligible persons and in accordance with the requirements and legislative intent of the respective programs. We reviewed pertinent legislation, regulations, guidelines and, on a test basis, detailed records of disaster unemployment assistance and unemployment compensation for Federal employees' benefits. We held discussions during and after our work with Federal and State officials having responsibility for administering the programs.

Our work was performed primarily at the Department of Labor Regional Office in Philadelphia, Pennsylvania, the Manpower Administration in Washington, D.C., and at the central office of the State employment security agency in Harrisburg, Pennsylvania, which is responsible for administration of the programs. In reviewing unemployment compensation for Federal employees' benefits, we also obtained information from several Federal agencies including the

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Department of Housing and Urban Development, Small Business Administration, and Corps of Engineers.

We found that:

- Labor's misinterpretation of disaster unemployment assistance benefit limitations could have resulted in improper payments estimated at \$3.4 million; however, such payments were avoided due to expiration of the time limit for filing claims.
- The weekly disaster unemployment amount paid to some claimants exceeded the unemployment compensation amount allowable under the State's unemployment program and, in some instances, the claimant's average weekly earnings prior to the Agnes disaster. This was due to a minimum weekly assistance amount prescribed by Federal regulations. It was not clear whether Congress intended or anticipated such results.
- Incorrect disaster unemployment assistance payments were made because of errors or oversight by State agency personnel.
- Insufficient criteria existed for Federal agencies' use in determining eligibility for unemployment compensation benefits of terminated Federal employees.

The Disaster Relief Act of 1970 provides that disaster unemployment assistance benefits shall not exceed the maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred. Labor interpreted disaster unemployment assistance benefits authorized by the act to the effect that it authorized benefits to eligible disaster victims covered under a State's unemployment compensation program (30 weeks in Pennsylvania) for a period in addition to the State program. The Comptroller General ruled (B-171934) on May 16, 1974, that Labor's interpretation could not be supported since the paramount purpose of disaster unemployment assistance was to provide the equivalent of State unemployment compensation benefits to victims who were not eligible for State unemployment compensation. Although there were additional disasters for which future claims in excess of limitations could possibly have been submitted, Labor failed to advise State agencies concerning the Comptroller General's interpretation of maximum limitations.

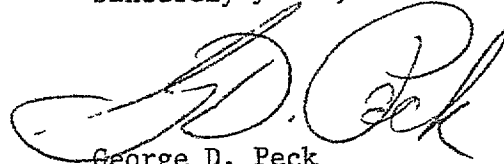
The Disaster Relief Act Amendments of 1974, Public Law 93-288, approved May 22, 1974, authorized benefits for a period up to one year after the disaster is declared. Thus, the duration limitation for benefits is no longer the same as that for a State's unemployment compensation program. The limitation on the weekly assistance amount, however, remains unchanged and is the same as that for the State program.

The enclosure to this letter contains further details of our findings. It also points out areas where corrective action by the Department could improve program administration.

We discussed the contents of this report informally with Department of Labor officials who concurred in the facts developed.

We would appreciate your views on any action taken or contemplated as a result of this report. We wish to acknowledge the cooperation given to our representatives during this survey.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'G. D. Peck', written in a cursive style.

George D. Peck
Assistant Director

Enclosure

cc. Secretary of Labor
Assistant Secretary for
Manpower
Director of Audit and
Investigations
Philadelphia Regional
Director

FEDERAL UNEEMPLOYMENT BENEFITS DUE
TO AGNES DISASTER IN PENNSYLVANIA

INTRODUCTION

On June 21, 1972, Tropical Storm Agnes struck Pennsylvania and other Eastern States causing severe flooding, extensive property damage, injuries and deaths. In response to a request for Federal assistance by the Governor of Pennsylvania, the President declared the State a major disaster area.

Federal assistance is provided under authority of the Disaster Relief Act of 1970, approved December 31, 1970 (42 U.S.C. 4401 et seq.) to alleviate suffering, hardship and damage caused by a disaster. The scope of disaster relief programs may include a wide range of assistance to State and local governments, businesses, and persons, such as temporary housing and temporary assumption of mortgage and rent payments; emergency loans to repair, rehabilitate, or replace damaged property, and unemployment assistance payments to persons unemployed as a result of the disaster. The Office of Emergency Preparedness was delegated responsibility for managing and coordinating such programs upon the President's declaration of a disaster.¹

Disaster unemployment assistance

Responsibility for providing disaster unemployment assistance (DUA) was delegated by the Office of Emergency Preparedness to the Department of Labor. For the Agnes disaster, the Department of Labor entered into an agreement with the Governor and the Bureau of Employment Security, Pennsylvania Department of Labor and Industry (State agency) to act as its agent in making benefit payments. The disaster assistance period extended for one year--the maximum period permitted by Federal regulations--from June 18, 1972 to June 17, 1973. The expiration date for filing DUA benefit claims was June 30, 1973.

Section 240 of the Disaster Relief Act of 1970 provides that DUA benefits shall not exceed the maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred. DUA benefits must be reduced by any State unemployment compensation, income protection insurance compensation and

¹Responsibility for managing and coordinating Federal disaster relief was transferred on July 1, 1973, by Executive Order 11725 (3 C.F.R. 367) from the Office of Emergency Preparedness to a successor agency--the Federal Disaster Assistance Administration in the Department of Housing and Urban Development.

certain other income available or paid to a DUA claimant.

Basic assistance paid to persons unemployed as a result of the disaster in Pennsylvania ranged from a minimum of \$54 to a maximum of \$85 weekly, the amount varying in accordance with each person's earnings during the base period--January 1, 1971 to December 31, 1971, and the number of dependents.¹ A dependent allowance of either five dollars (for one dependent) or eight dollars (for two or more dependents) was provided to persons entitled to such allowances.

The same rate schedule applicable to persons covered by the State's unemployment compensation program was used to determine DUA amounts except that the \$54 minimum DUA amount applied if it exceeded the schedule amount. The rate schedule provided for benefits ranging from a minimum of \$12 to a maximum of \$85 plus dependent allowances under the State program.² The \$54 minimum DUA amount was computed in accordance with Federal regulations, and was based on the average weekly regular unemployment compensation payment (including dependent allowances) experienced by the State during the base period.

DUA benefits of approximately \$8.6 million were paid to about 33,000 claimants in Pennsylvania due to the Agnes disaster. This amount comprises about 43 percent of the total \$20.2 million paid during fiscal year 1973 to persons unemployed as a result of major disasters throughout the Nation.

Unemployment compensation for Federal employees

Unemployment compensation benefits may be provided to Federal employees upon termination of their employment. Such benefits are provided under authority of the Social Security Act (5 U.S.C. 8501 et seq.). Several Federal agencies hired persons on a temporary basis to assist in the Agnes recovery program and later terminated their employment. We estimate that unemployment compensation benefits totaling about \$778,000 were paid to such persons for claims filed during the first 9-months of 1973.

Under agreements entered into with the Department of Labor, State employment security agencies administer the unemployment compensation for Federal employees (UCFE) program. Generally, benefits are paid in the same amount, on the same terms, and subject to the same conditions as payments made to persons covered under the unemployment compensation laws of the various States.

¹Wages earned during the base period are used to determine a claimant's weekly benefit amount.

²The schedule amount was increased from \$85 to \$91 effective January 1, 1973, and to \$95 effective January 1, 1974.

In Pennsylvania, benefit payments were made by the State agency, as agent of the Department of Labor. UCFE benefits ranged from a minimum of \$12 to a maximum of \$85 weekly plus dependent allowances, payable for a 30-week duration

MISINTERPRETATION OF DISASTER UNEMPLOYMENT ASSISTANCE BENEFIT LIMITATIONS

Pennsylvania prepared to pay additional DUA benefits in excess of maximum limitations due to Labor's misinterpretation of limitations prescribed by law. Payment of benefits estimated at \$3.4 million was avoided due to expiration of the 1 year time limit for filing disaster claims. Although there were additional disasters for which future claims in excess of limitations could possibly have been submitted, Labor failed to advise State agencies concerning the Comptroller General's interpretation of maximum limitations.

Maximum DUA benefit limitations

In Pennsylvania, the maximum duration for unemployment compensation is 30 weeks and the maximum entitlement amount is the sum of the weekly compensation for the 30-week period. Accordingly, similar limitations apply to DUA benefits for a specified disaster period.

In March 1973, the State agency requested an interpretation from Labor concerning an individual's entitlement to DUA after he had received the maximum number of weeks of State unemployment compensation. In a letter dated April 20, 1973, Labor stated that the maximum DUA entitlement amount is available for payment during the disaster period regardless of the number of weekly DUA payments or unemployment compensation payments received by a claimant during the period. Thus, an individual unemployed due to a disaster but receiving or entitled to receive State unemployment compensation during the disaster period may be paid weekly DUA benefits from the maximum DUA entitlement balance available after his unemployment compensation benefits under the State program have been exhausted. In such cases, benefit payments could exceed the maximum amount and duration limitations for a disaster. Two hypothetical examples illustrating this condition in Pennsylvania are discussed below.

Example A

A claimant whose wages and employment are covered by the State program could receive unemployment compensation totaling \$2,400 for 30 weeks (maximum duration) based on a weekly payment of \$80. Since the claimant did not use any of his DUA benefit entitlement (also \$2,400), he could receive a weekly DUA payment of \$80 for each remaining week in

the disaster period for which his unemployment continued to be disaster related. Accordingly, the claimant could receive unemployment compensation payments of \$2,400 (\$80 x 30 weeks) and DUA benefit payments of \$1,760 (\$80 x 22 weeks) or total benefits of \$4,160 during the maximum one-year disaster period.

Example B

A claimant entitled to a \$20 weekly benefit payment under the State program would also receive a supplemental weekly DUA payment of \$34 because a minimum weekly DUA amount of \$54 was established for Agnes disaster claimants in Pennsylvania. At the end of the 30 weeks the claimant would have received \$1,020 of his total (\$1,620) DUA entitlement. Accordingly, he could receive additional weekly DUA payments of \$54 until his DUA entitlement balance of \$600 was exhausted if continued unemployment was due to the disaster. In this illustration, the claimant would have received benefits totaling \$2,220.

Labor's interpretation of section 240 could also result in discriminatory treatment of disaster victims by permitting some to receive nearly double the amount of benefits that others may receive. For example, a person not entitled to State unemployment compensation benefits in Pennsylvania may receive 30 weeks of DUA benefits while a person entitled to 30 weeks of State unemployment compensation benefits may also receive 22 weeks of DUA benefits under the appropriate facts and circumstances.

Proposed payment of benefits
in excess of maximum limitations

Pennsylvania began preparations to process additional DUA payments in June 1973, based on Labor's interpretation of the maximum DUA limitations. The State identified DUA entitlement balances totaling about \$583,000 for individuals whose DUA payments were reduced by unemployment compensation amounts received during the 30-week period. In addition, other individuals did not receive any DUA payments but were eligible for and received State unemployment compensation for 30 weeks following the Agnes disaster. We estimate that the potential DUA benefits available to such individuals totaled about \$2.8 million for the remaining 22 weeks of the disaster period. Additional payments were not made, however, because the time period for filing assistance claims expired on June 30, 1973.

The proposed payment of about \$3.4 million potential DUA benefits beyond the 30-week period in Pennsylvania, in our opinion, would not have complied with the maximum amount and duration limitations prescribed by law. We believe that the legislative intent of the benefit limitations prescribed in section 240 of the Disaster Relief Act of 1970 was to provide

coverage over a single benefit period that was equivalent to the benefit period authorized under the State's unemployment compensation program. In our view, Labor's interpretation of the benefit limitations was contrary to such intent.

Labor officials disagreed with our findings. They took action, however, to prevent the proposed payment of the additional DUA benefits. Pennsylvania planned to notify claimants who might be eligible for additional DUA benefits and advise them to submit claim applications. Before this action was taken, however, Labor advised the State agency in August 1973, that Federal regulations prohibited acceptance of DUA claim applications filed later than one year from the announcement date of the disaster. The one-year period for the Agnes disaster had already expired on June 30, 1973, therefore Pennsylvania was prohibited from accepting the proposed additional DUA claims. Labor officials, however, did not change their interpretation of the maximum benefit limitations.

Because similar conditions could arise in other major disasters, we pursued the legal aspects of Labor's interpretation of benefit limitations. The Comptroller General ruled (B-171934) on May 16, 1974, that the limitations provide for DUA benefits for a single benefit period which is equivalent to the period authorized under the State's unemployment compensation program. The ruling provided that payment of DUA benefits beyond such period was not authorized for persons covered under a State's unemployment compensation program.

We identified 10 major disasters which occurred during the period October 1973 to March 1974 for which DUA payments were still being made as of June 1974. For three disasters the benefit periods authorized under the State's unemployment compensation programs had already been exceeded, while for the remaining seven disasters, such periods would be reached at various future dates.

Since DUA benefits relating to these disasters could be paid in excess of limitations, we met with a Labor official on July 31, 1974, to ascertain what action had been taken to assure compliance with the Comptroller General's decision. We were advised that Labor had inquired into the three disasters that had reached the benefit period limitation and found there were no payments made beyond such periods. Regarding the remaining seven disasters, the Labor official told us the Department intended to monitor payments when the maximum benefit periods were reached but would not inform the State agencies of the Comptroller General's decision in advance.

Subsequent discussions with Labor officials disclosed that the Office of the Solicitor did not agree with the Comptroller General's

decision and, therefore, adopted the position of deferring action until a condition might arise in which the decision would be applicable. Labor officials further informed us that there were no payments beyond maximum limitations in the remaining disasters; therefore, there was no occasion to consider applying the decision. In view of this and the enactment of the Disaster Relief Act Amendments of 1974 on May 22, 1974, which authorized DUA benefits for a period up to one year after the disaster is declared, Labor did not seek to resolve its differences with the Comptroller General's decision.

Impact of recent legislation
on DUA benefit limitations

The Disaster Relief Act Amendments of 1974, approved May 22, 1974, authorize DUA benefits to individuals unemployed as a result of a major disaster for a period no longer than one year after the disaster is declared. Thus, the duration limitation for DUA benefits has been extended to one year and is no longer the same as that for a State's unemployment compensation program.

EXCESS UNEMPLOYMENT BENEFITS DUE TO
MINIMUM AMOUNT PRESCRIBED BY LABOR

The weekly DUA amount paid to some claimants exceeded the unemployment compensation amount allowable under the State's unemployment program and, in some instances, the claimant's average weekly earnings prior to the Agnes disaster. In our opinion, it is not clear that disaster unemployment assistance legislation intended or anticipated these results. Also, we believe that this condition can create a disincentive for beneficiaries to seek work.

The paramount purpose of section 240 of the Disaster Relief Act of 1970 was to provide the equivalent of State unemployment compensation benefits to victims who were not eligible for State unemployment compensation. Although the 1974 act removes the tie to State unemployment compensation programs regarding benefit duration limitations, the weekly DUA amount limitation remains unchanged and is the same as that for the State program.

Section 240 of the 1970 act and section 407(a) of the 1974 act are essentially identical as they pertain to maximum weekly assistance amounts. Both provide that assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance must be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to an individual for each week of unemployment.

According to the Department's regulations, the claimant's weekly DUA amount is either (1) the amount of the average weekly regular unemployment compensation payment (including dependent allowances) experienced by the State for a base period prior to the disaster, or (2) the amount of regular unemployment compensation the claimant would have been entitled to receive if his work and wages had been covered by the State unemployment program, whichever amount is greater. A minimum weekly DUA amount of \$54 was established for Agnes disaster claimants in Pennsylvania based on the average of regular unemployment compensation payments experienced by the State during the base period.

A Labor official told us that the minimum weekly DUA amount prescribed by the Department's regulations was established because of the difficulty anticipated in obtaining timely base earnings data for some claimants not covered by a State's unemployment program.

The weekly benefit rate schedule for the State unemployment program in Pennsylvania provides unemployment compensation of about one-half the individual's average weekly wages during the base period, subject to a maximum payment. The schedule is used to determine the amount of unemployment compensation for an individual whose work and wages are covered by the State program. The schedule is also used to determine the DUA amount for an individual who becomes unemployed due to a disaster whether or not he is covered under the State program except that the minimum DUA amount applies if it exceeds the schedule amount.

For example, an individual entitled to unemployment compensation of \$13 under the State program, would receive a supplemental DUA payment of \$41 if he was entitled to the \$54 minimum weekly DUA amount due to the Agnes disaster. A person not covered by the State program also received the \$54 minimum DUA payment if his average weekly earnings during the base period provided for a benefit amount on the schedule lower than this minimum amount.

To determine the relationship between the minimum DUA amount and amounts allowable under the State program, we analyzed case records for a random sample of 155 DUA claims. The sample was selected from about 33,000 claims filed during the disaster period.

In about 100 cases, or 65 percent of the sample, the weekly DUA amount exceeded amounts allowable under the State program by about \$14,000. Based on our sample results, we estimate that the minimum weekly DUA amount resulted in payments of about \$3 million in excess of amounts allowable under the State program.¹

¹Sampling error of the estimate is \$781,000 at the 95 percent confidence level. Thus there is only one chance in 20 that the estimate derived from the sample would differ from an analysis of all claims by more than the sampling error.

In 66 of the 100 cases, the individuals were covered under the State unemployment program and received unemployment compensation ranging from \$13 to \$51, supplemented by DUA payments to arrive at the \$54 minimum DUA amount. Included also in the 100 cases were 31 cases, or about 20 percent of the sample, in which the minimum DUA amount also exceeded the claimants' average weekly earnings from employment prior to the Agnes disaster. The excess benefits amounted to about \$5,700 or 43 percent of the total DUA payments received by the claimants.

The average weekly earnings for these individuals prior to the disaster was about \$33 compared to the \$54 minimum DUA amount they received following the disaster. In one case, the claimant was a recent high school graduate from a vocational training course and received DUA benefits because he was unable to obtain employment due to the disaster.

A Labor official advised us the Department is considering a revision to disaster unemployment assistance regulations to provide that assistance amounts shall not exceed a person's earnings prior to the disaster and that his "lost" earnings must have been his principal means of livelihood. Although we believe this would be an improvement over the present program, it is not clear the Congress intended that weekly DUA benefits should be at variance with amounts provided under State programs.

Because our work was of a survey nature, we did not attempt to determine the impact on work incentives when unemployment assistance amounts exceed amounts authorized by State programs. We believe, however, that as assistance payments approach or exceed an individual's prior earnings, they may act as a work disincentive.

To provide DUA benefits on the same basis as a State's unemployment compensation program would require data on uncovered workers' prior earnings during a base period. We recognize that in some cases it may be difficult to obtain such data. As an alternative procedure for uncovered workers, the Department may wish to consider using a percentage of a person's "lost" wages--weekly earnings just prior to the disaster--to arrive at a weekly DUA benefit which approximates State benefits. We believe, however, that congressional intent should be clarified.

We suggest that the Department consider (1) seeking legislation to clarify congressional intent concerning maximum weekly assistance amounts and (2) revising Federal regulations to provide appropriate limitations on weekly benefits.

INCORRECT DUA PAYMENTS

Weaknesses in program administration resulted in incorrect DUA payments. In a random sample of 155 cases we found 20 cases of over-

payments totaling \$540 and 5 cases of underpayments totaling \$157. These incorrect payments were due primarily to errors or oversight by State agency personnel in preparing or processing claims.

The overpayments on our sample cases occurred because.

- Unemployment compensation benefits totaling \$365 were not deducted in eight cases.
- Dependent allowances totaling \$111 were not properly considered in reducing DUA benefits in six cases.
- Wages or vacation pay totaling \$64 were not properly considered in computing benefit amounts in six cases.

The underpayments involving five cases amounting to \$157 were caused by incorrect partial earnings computations, failure on the part of claimants to file Form DUA-3 for supplemental benefits, or administrative oversight on the part of keypunch operations to process DUA-3 claim forms.

We discussed the over- and underpayments with State and Federal agency personnel who agreed with our findings. The State agency subsequently initiated corrective action.

The State agency on its own initiative took action primarily through postaudit procedures to identify and correct improper payments such as those disclosed by our sample. As of February 28, 1974, the agency had identified 1,528 cases of overpayments totaling about \$157,000 and had recovered about \$59,000. Recovery actions on some cases were pending appeals by the claimants.

State agency personnel advised us that some confusion in administering DUA claims resulted from lack of proper guidance and instructions. Initially, some DUA claim forms were completed based only on the instructions shown on the forms since DUA handbooks and other definitive instructions were not available to some local claim offices until several weeks following the disaster. In addition, the handbook was based on the provisions of the Disaster Relief Act of 1969 and had not been updated by Labor since June 1970 to incorporate subsequent changes including those resulting from the Disaster Relief Act of 1970. Some of the changes, however, were covered by separate instructions issued by Labor.

We believe that the Department should assess this situation and consider actions needed to insure proper payments in other disasters.

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

Several Federal agencies authorized unemployment compensation for

Federal employees' (UCFE) benefits to terminated Federal employees who had been hired temporarily to assist in the Agnes disaster recovery. We estimate that over 650 such persons received benefit payments totaling about \$778,000 for claims filed during the first 9-months of 1973.¹ Although the certifications authorizing such benefits were proper, they were made without knowledge of conditions under which claimants would be ineligible under the UCFE program.

Public Law 83-767 which added title XV to the Social Security Act (5 U.S.C. 8501 et seq.) authorized the payment of unemployment compensation benefits to Federal employees, effective January 1, 1955. The law provides that the Secretary of Labor administer the UCFE program and that he enter into agreements with State governments whereby the State employment security agencies, as agents of the United States, make UCFE payments.

To be eligible for UCFE benefits a person must perform Federal service as defined in the law. Section 8501(1) stipulates that certain categories of service are excluded from the definition of Federal service for UCFE purposes. One of these categories (section 8501(1) (1)) which is not considered Federal service applies to individuals serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency.

Labor's UCFE instructions for Federal agencies contain the following interpretation of the Federal service exclusion applicable to temporary emergency employment.

"The key to the exclusion in 5 U.S.C. 8501(1) (I) (121.1) of employment '...on a temporary basis in cases of fire, storm, earthquake, flood or other similar emergency...' is that the employment was on a temporary basis to take care of a catastrophic emergency. Normal temporary appointments, such as 30-day temporaries and Post Office Christmas temporaries or appointments for other short-term or part-time employment, are within the UCFE definition of 'Federal service' for purposes of this program and are not the kinds of employment which are excluded under this section."

Certification procedures

Upon application for UCFE benefits by a former Federal employee, the State agency submits Form ES-931, Request for Wage and Separation Information, to the appropriate Federal agency payroll office requesting wage and employment information required to process the application. The

¹Based on random sample of 182 cases. Sampling error of the estimate is \$137,000 at the 95 percent confidence level.

Federal agency must affirm that the person performed Federal civilian service as defined for UCFE purposes and must certify that the report is correct and complete. If the person did not perform Federal civilian service, the Federal agency must cite the provision of the law which excludes the service and sufficient information about the conditions of employment so that an interpretation may be made by Labor.

The Labor Region III auditor advised us that audit procedures do not include verification of Federal agency certifications of Federal civilian service for UCFE purposes. The agencies are responsible for the adequacy of their UCFE operations and Labor audits accept the certifications submitted by the agencies.

Applicants certified for UCFE benefits

To determine whether the Federal service exclusion was applied correctly for Federal employees hired temporarily to assist in the Agnes disaster, we reviewed a random sample of 182 cases from applications filed by such persons with the State agency during the 9-month period January through September 1973. The applicants were formerly employed by various Federal agencies with the Department of Housing and Urban Development (HUD) and the Small Business Administration (SBA) accounting for 167 of the 182 cases sampled. The case records showed that the Federal agencies did not apply the Federal service exclusion to persons hired on a temporary basis to assist in the flood emergency.

HUD and SBA Federal officials advised us they were not aware of the Federal service exclusion under section 8501 of the Social Security Act and they planned to make no changes in their certification procedures. The officials stated that they consider any employee on their payroll records as performing Federal service.

We provided Labor with pertinent information and requested its views on the matter. Labor advised us that it believed the payment of UCFE benefits in such cases was proper and in full accord with the law.

Labor's analysis of the legislative history of section 8501(1) (I) concluded, among other things, that the section was intended to exclude only those temporary workers hired to perform services during the actual emergency (e.g., filling sand bags and fighting the flood), but not those temporary workers hired to perform services having only some connection with the emergency after the emergency had passed. Labor also pointed out that the Agnes disaster workers in question--inspectors, guards, engineers, mechanics, carpenters, glaziers, and office staff--were appointed as temporary employees to perform the normal activities of the various Federal agencies; and were employed for periods of time ranging from a few months to over one year.

We agree with Labor's view that the Federal service exclusion does not apply to temporary Agnes disaster workers serving after the emergency had passed and having only some connection with the emergency.

We believe, however, that Labor's instruction as to the conditions in which the exclusion does apply in disaster situations is ambiguous. Also, it is apparent that Federal agencies lack criteria to apply the exclusion. Under existing procedures, Labor does not usually review Federal agencies' UCFE eligibility determinations unless the agencies find that applicants are not eligible. Thus, a clear understanding of the conditions in which the exclusion applies is needed to insure proper eligibility determinations.

Therefore, we suggest that Labor clarify its instructions for Federal agencies to insure a uniform understanding of the meaning of the Federal service exclusion.