

VI. STATE EXPERIENCES IN THE ADMINISTRATION OF EUC

The Emergency Unemployment Compensation (EUC) program, like earlier emergency benefits programs, was difficult to implement and administer. Some implementation problems are inherent to emergency extended benefits programs because these programs are typically enacted in the latter part of recessionary periods after unemployment rates have been high for some time. Because these programs attempt to meet immediate needs, they are often expected to be implemented very quickly. Furthermore, concern for individuals who became unemployed before enactment of emergency benefits legislation often leads to passage of legislation that includes retroactive-eligibility provisions. Other components of emergency benefits legislation, while not inherent to these programs, often attempt to redress problems or issues that arise from the way emergency programs interact with regular state Unemployment Insurance (UI) programs. These components add to the implementation challenge. In this chapter, we assess the effects of EUC on the administration of state employment security agencies (SESAs) and discuss those aspects of EUC most difficult to implement and administer. This analysis should be useful for improving the design and implementation of future emergency benefits programs.

Our analysis is based on examination of the EUC legislation and UI program letters interpreting this legislation for the states, as well as on discussions with program administrators in nine states. Each discussion lasted about an hour and addressed such issues as the need for rapid implementation, the implications of legislative changes over the life of the program, the implications of the reachback provision (which allowed claimants from an earlier period to be treated as though they were current claimants) and the options provision (which allowed some claimants to choose to collect EUC instead of UI). Also covered are the effects of EUC on other functions such as data reporting and

on the relationships between the SESAs and UI claimants, the broader community, and the federal-state UI partnership. The administrators were from California, Florida, Illinois, Maine, North Carolina, Pennsylvania, Texas, West Virginia, and Wisconsin.¹

In Section A, we discuss the states' experiences implementing the EUC program shortly after enactment of the initial legislation. This section focuses on the need for rapid implementation of EUC and the reachback provisions. In Section B, we discuss the implications of the different phases of the EUC program. In Section C, we discuss complications that arose from the need to offer some claimants a choice between regular UI and EUC between July 1992 and November 1993. In Section D, we discuss other administrative aspects of EUC, such as the work search requirements and the effects of EUC on other administrative functions. In Section E, we examine the implications of EUC on the relationships between the SESAs and other groups, such as the federal UI system and the community. In Section F, we conclude by making recommendations on how some of the implementation problems associated with EUC might be avoided in the future.

A. INITIAL PROGRAM IMPLEMENTATION

On November 15, 1991, Congress enacted Public Law 102-164, which allowed states to pay up to either 13 or 20 weeks of benefits to claimants who had exhausted their regular UI entitlements. EUC legislation became effective almost immediately, since payments were to be made for weeks beginning only two days after the enactment date. As a result, states were under intense pressure to make payments to claimants as soon as possible. For example, there were reports in the national

¹This set of states offers several advantages. First, we interviewed administrators from both large (5) and small states (4). Second, the states vary geographically, representing 6 of the 10 UI regions. Third, the states chosen represent a wide range of average benefit durations and percentages of EUC claims that were optional EUC claims; these characteristics probably affect the states' experiences in implementing the EUC program.

media of congressional representatives who promised that the checks would be paid by Thanksgiving. Agency staff felt that these expectations were unrealistic, that they did not take into consideration the processes necessary to interpret the new legislation, translate it into state-specific language, train staff, modify computer programs, and create or modify forms--all within a short time.² A few states reported getting some portion of their checks out by Thanksgiving; but, not surprisingly, most states took longer to issue checks.

1. Staffing

One of the reasons why states had difficulty implementing EUC-1 quickly was that they were unable to adjust their staff levels rapidly to respond to the sudden increase in claims that needed to be processed. In most states, UI claim rates are high in the winter; so regular staff were extremely busy when EUC was enacted. Because states were often restricted in their ability to hire new staff due to civil service requirements, most of the states we talked to had to handle the sudden--and quite large--increase in their caseloads by requiring substantial staff overtime.³

2. The Reachback Provision

Because emergency benefits programs typically start after unemployment rates have been high for a long time, these programs often contain provisions that benefits be available to individuals whose benefit years for regular UI benefits ended prior to the legislation date authorizing the

²The first General Administrative Letter, for example, was distributed November 27, 1991. The first Unemployment Insurance Program Letter, which provided responses to more than 50 questions from states about implementation of Public Law 102-164 (EUC-1), was distributed December 16, 1991.

³Even when new staff were hired, the complexity of EUC made it difficult for states to train them (as well as more tenured staff). Lack of sufficient staff to cover the increased workload plagued most of the states we talked to throughout EUC.

emergency benefits. The goal of these "reachback" provisions is to ensure that people who became unemployed early in the recession are not penalized, compared to those who became unemployed later in the recession, simply because of the timing of their unemployment.

Reachback provisions were the most complicated programming aspect of EUC-1. States had to contact, determine eligibility for, and process records for the large number of claimants whose benefit years ended during the reachback period (March 1 to the November 15, 1991, legislation date). By the time EUC became effective, many of these claimants had previously been denied benefits or had been paid under other programs, thereby complicating eligibility and payment determination. Most states were able to develop programs that identified both claimants with expired benefit years and claimants who had exhausted their UI entitlements; however, the urgency with which benefits were expected to be paid meant that no state had adequate time to thoroughly check the numerous programming changes. Once claimants were identified, states' central offices mailed forms to notify claimants of the potential additional benefits. Although states tried to handle administration by mail, several had large numbers of potentially eligible claimants who had to visit field offices. This only added to the stress on state systems.

B. IMPLICATIONS OF THE DIFFERENT PHASES

The EUC program consisted of the initial legislation and six legislative amendments over the two and a half years the program was in effect. Most of these amendments significantly changed parts of the program and had little lead time, thereby forcing states to modify their procedures quickly. For discussion purposes, we have categorized the EUC program into five different phases (EUC-1 through EUC-5), each significantly different from the other phases (see the discussion in Chapter I).

All states reported having problems coordinating the five different phases of EUC. Much of the information provided to claimants became obsolete or incorrect as soon as amendments became effective. The legislative changes, which typically were effective immediately after passage, necessitated three to six central office staff (with intermittent support from other staff), who became the "EUC experts" and liaison with the U.S. Department of Labor (DOL).⁴ These staff often worked full time on interpreting the legislation, training managers, revising forms, and directing implementation within their states.⁵

Several respondents expressed frustration that SESA staff were exhausted because of the intense demand on resources caused by the revisions and by what was perceived as lack of legislative foresight. A common theme reported by survey respondents was that just when agency staff thought they had gotten things straightened out, the program would change again (the phases lasted only two and a half to nine months). State administrators also reported that the frequent changes in program rules and procedures, and the confusion that resulted, increased the time spent helping each claimant.

Even changes in benefit duration, which were relatively easy to implement from a programming standpoint, added considerably to the administrative burden because these changes were frequent and required mass mailings to claimants. At a minimum, 35 states had 5 EUC benefit duration levels (one for each of five phases) during the two and a half years of the program (Table VI.1). For other states, duration levels changed more frequently because their state-specific unemployment rate

⁴The DOL distributed 12 General Administrative Letters (or changes to them) and 7 UI Program Letters, which provided answers to more than 260 questions asked by SESAs. In some instances, the answers provided as guidance to the states were modified in subsequent UI Program Letters.

⁵Several states reported issuing between 60 and 100 notices, memos, and procedural instructions to their field offices while the EUC program was in effect.

TABLE VI.1

NUMBER OF DIFFERENT MAXIMUM BENEFIT DURATIONS
DURING THE EUC PROGRAM

Number of Durations	Number of States
5	35
6	6
7	2
8	3
9	5
Total	51

NOTE: Four states also had EB in effect for some portion of the EUC program. One of these states had five EUC benefit durations; one had eight durations; two had nine durations.

crossed the threshold for different durations. Eight states, for example, had at least eight different durations in effect. In addition, three of these eight states switched from EUC to regular extended benefits during this time. These changes made necessary the sending of additional notices to claimants. When benefit durations increased, both old and new claimants had to be notified of the change in their potential benefit duration. When durations decreased, old claimants retained their eligibility for the higher benefit level, but new claimants were eligible for only the lower benefit duration. One state explained that continual revisions required a complex "audit trail" of burdensome documentation of changes.

The multiple program changes affected claimants as well. Some claimants perceived disparities (generated by the EUC phases) in how they were treated because of apparently arbitrary distinctions between them. In some situations, claimants who filed one week later than other claimants were eligible for substantially fewer benefits; in other situations, claimants could lose a large portion of potential benefits if they experienced an interruption in benefit collection that spanned a period in which durations changed.

One state administrator recommended that future emergency benefits programs be established initially for two to three years, to avoid the start-and-stop nature of the program and to recognize that emergency programs historically have lasted that long even when initial legislation specified shorter program duration.

C. ADMINISTRATION OF THE OPTION TO CLAIM EUC INSTEAD OF REGULAR UI

The concept of a benefit year is central to the regular UI program; claimants have one year from filing for unemployment benefits to collection of their total benefit allotment, which is based on

earnings in the year prior to application for unemployment benefits (known as the "base period").⁶ Claimants may not carry unused benefits into a new benefit year; to collect benefits, they must instead reestablish eligibility for a new benefit year. If they have been unemployed for any length of time, however, they may not be eligible at all for new benefits or they may be eligible for reduced benefit levels. In earlier emergency benefits programs, and in EUC-1 and EUC-2, claimants who had not collected all their emergency benefits were also required to file for a new benefit year after their existing benefit year ended. If eligible for regular UI, they could not continue collecting extended benefits. Therefore, some claimants had to forfeit some of their emergency benefits when they were forced to establish a new benefit year, potentially at a lower weekly benefit amount. These requirements were to ensure that state-financed benefits were exhausted before federally financed benefits were collected. If claimants were ineligible to establish a new benefit year (which meant they could not collect regular UI), they were allowed to continue collecting emergency benefits after expiration of their benefit year.

EUC-3 legislation passed in 1992 allowed some claimants to choose between filing for regular UI, when they were able to establish a new benefit year, and beginning or continuing to collect EUC under a previously established benefit year. The intent of the EUC-3 legislation was to help claimants whose weekly benefit amounts would decrease if they were forced to establish a new benefit year. However, determining which option--collect UI or EUC--was better became an extremely complicated decision for claimants. Whether a claimant would be better off choosing EUC or UI depended not only on known factors--the weekly benefit amount and duration of EUC

⁶In most states, the base year is defined as the first four of the last five calendar quarters completed.

and UI benefits they were eligible for at the time of filing--but on unknown factors, for instance, the expected duration of unemployment and the likelihood that EUC would be available in the future.

From a SESA perspective, the change in the way emergency benefits programs were structured relative to regular UI was the most problematic aspect of EUC. These problems were both philosophical and operational. On the philosophical level, our state respondents felt that this provision was contrary to "everything UI stood for." The respondents felt that the time limit for eligibility should be maintained, that benefits from an old benefit year should not be retrievable if a new benefit year was established, and that emergency benefits collection should follow regular UI collection. On these issues, the administrators thought that the EUC legislation's logic undermined the regular UI system's safeguards. Allowing claimants to collect emergency benefits instead of regular benefits reduced employers' responsibility for layoffs, since employer contributions finance regular UI but not EUC.

On the operational level, the options legislation dramatically increased the resources necessary to process claims, particularly in the programming departments, field offices, and departments that handled funding adjustments. All states had to make changes in their claims-processing computer programs because the EUC option overrode checks that were designed to force claimants to establish a new benefit year when they reached the end of their initial one. States also modified computer programs to do the calculations necessary to provide the option to claimants, but in some cases they could not automate all the steps of the process. Because of the short time frame in which states had to make changes, state staff reported that they had to test their computer changes on the public, thereby creating additional errors that had to be corrected. In the end, staff reported that they were unsure of all the implications of the programming changes that had to be made.

Not only was the options legislation difficult to program into state computer systems, it was also complicated to explain to claimants. Staff typically explained the options to claimants in one-on-one sessions, which were extremely time-intensive (a few states reported spending 20 minutes on average to do this, plus potentially more time to calculate potential benefit award levels).⁷ State administrators typically thought that most claimants were unable to understand the trade-offs involved in making their decision, even after field staff provided detailed explanations. One administrator felt that this situation was especially frustrating to field staff, who were frequently asked, "What do you think I should do?" after giving a complex explanation of the options to claimants. Another state reported that some claimants found the process so confusing that they stopped filing for benefits to which they were entitled. While EUC regulations allowed only claimants who had not received complete information about the option to change their choice after they began filing, some states indicated that, because of the complexity of the options legislation, they interpreted this restriction more loosely and allowed more than just a few claimants to change their choice after they began filing. These changes merely added to the administrative complexity of the program.

All states reported that a number of under- and overpayments were generated by delays in implementing the option fully and correctly, and that these under- and overpayments were extremely complicated and time-consuming to correct. For example, one state reported that up to nine transactions were required to change funding from one program and benefit year to another program and benefit year. A few states reported taking up to two years *after* the program ended to sort out

⁷Several states felt that technological and administration changes such as remote claims processing made in recent years would make handling the options legislation in EUC even harder now. They thought that implementing the options component of EUC while using remote claims processing would be virtually impossible because staff would not be in place in the field offices to explain the option face to face.

all the funding problems created by the options legislation. Enacting the options legislation retroactively was responsible for much of this extra work, since claimants could retroactively choose the program from which their payments came.⁸ Some states were unclear about which overpayments were forgiven and which were not; thus, they did not know how to handle different payment offset rates for EUC and regular UI. States may also have experienced higher rates of noncharging because of this confusion. Changing funding sources affected employers as well, since they were often confused by receiving several notices about charge adjustments.

Although each state may have encountered different problems interpreting and implementing the options legislation, all of them felt that the problems were due to the unnecessary complexity of EUC and could not easily be integrated into the regular UI system. Several states gave specific examples of the confusion and complications resulting from the options legislation and the incomplete instructions on how to implement it. Some states did not initially understand that claimants with new benefit years already established could retroactively choose to collect EUC instead of UI for weeks prior to the date the claimant chose the option. At least one state reported having to expand its computer hardware because the hardware in place could not fully automate the options legislation. Interstate claims were even more difficult to administer than regular UI claims, because states often interpreted the options legislation differently. Overall, state administrators thought the options legislation should not be repeated in future emergency benefits programs,

⁸Keeping track of the different federal funding sources for EUC was an additional complexity, because different funding sources were used for different EUC phases and because claim dates (rather than the dates payments were made) were used to determine from which funding source the benefits were paid. Under the regular UI program, states typically need not tie claim payments to different funding sources. Under the EUC program, however, payments made to two claimants in a week may have had to be charged to different funding sources if the claimants began collecting benefits during different EUC phases. The phase in which the payment was made did not determine the funding source.

primarily because implementing this legislation would be too costly and confusing to administer, even if some claimants benefited.

D. OTHER ADMINISTRATIVE ISSUES

Although the most prominent components of EUC were the reachback and options provisions, EUC had other components that affected program administration--and EUC affected other routine SESA tasks besides the administration of intrastate regular UI claims. In this section, we examine three special topics: (1) the EUC requirements for stringent work search efforts, (2) the effects of EUC on the handling of interstate claims, and (3) the effects of EUC on the ability to conduct other routine administrative tasks.

1. Work Search Requirements

Eligibility for benefits during EUC-1, -2, and -3 required "systematic and sustained" work search efforts, a standard that is more stringent than most states' regular UI work search requirements. Some states, for example, require that regular UI program claimants be "able and available" for work. In contrast, systematic and sustained work search was interpreted to be work search "maintained throughout the week" and in a "regular manner with thoroughness and with a plan" (*Unemployment Insurance Program Letter No. 9-92 Change 2*, February 20, 1992). SESAs also had to verify that claimants whose job prospects were identified as "poor" registered with the Job Service.

Most state respondents thought that these stringent work search requirements did not make sense, since few jobs are available during recessionary periods. In their view, requiring increased job search activity and more trips to field offices, with little chance of finding a job, was frustrating to claimants and did little to improve claimants' chances for reemployment. It also made no sense

for job-attached workers who are typically exempt from state work search requirements, but no exemption was allowed for EUC. As we discuss in Chapter III, the option to receive EUC before establishing a new UI benefit year meant that a greater proportion of EUC claimants were job attached than would typically be the case with an extended benefits program. It was frustrating to employers who complained about receiving many contacts from recipients when no jobs were available. Finally, employers complained about receiving contacts from agency staff attempting to verify that recipients had contacted them. These problems were exacerbated in areas where there were few employers.

States also reported that the requirements led to some administrative complications and problems. Agency staff had to be trained to administer two sets of work search requirements, and claimants had to have explanations of both sets of requirements. Additional complications arose with disqualifications because of failure to meet the work search requirements or to register with the Job Service. The UI and EUC programs had different criteria for renewed eligibility, and previously disqualified claimants might become eligible for one program but not the other. This additional complexity meant that, because of the work search requirements, some claimants switched back and forth between UI and EUC programs.

States reported that they found ways to classify claimants' job prospects as "not good" and to monitor that these claimants registered with the Job Service, but that this requirement did not adequately differentiate among claimants in many states. Half the states we contacted reported that they automatically classified *all* EUC claimants' job prospects as "not good." Two of the states indicated that Job Service staff found it difficult to register claimants, since there were no additional funds for handling the increased workload.

Overall, agency staff felt that emergency benefits programs would be easier to administer if they were more easily integrated into states' regular UI programs, so the states did not have to maintain two sets of instructions to claimants, two sets of criteria for determining eligibility, and two sets of procedures in which to train field staff.

2. Interstate Claims

Most of the states we surveyed reported that the processing of interstate claims became more difficult during EUC. Handling interstate claims is more complicated than handling intrastate claims because of differences in state UI programs, but, they felt, EUC exacerbated the level of difficulty in dealing with interstate claims. State staff indicated that this was particularly true for options legislation, since agent and liable states often treated options legislation differently. States found it difficult to inform claimants of all their choices when information from one state was not readily available to another, such as when a claimant was eligible for UI in one state and eligible for EUC in another.⁹ The retroactivity of the legislation further complicated administration of interstate claims because states sometimes had to coordinate collecting payments from one program--say, EUC--in one state to offset overpayments in another program--say, UI--in another state, when claimants retroactively exercised the option to choose which program they wanted to receive benefits from.

⁹EUC legislation also allowed states to calculate base period earnings in more than one way, which meant that the number of potential calculations increased significantly.

3. Effects on Administrative Resources

Because some central office management and data programming staff had to be assigned to work full time on EUC, states reported that routine tasks suffered and that most forward-looking administrative activities were put on hold during EUC.

Some states found that EUC greatly complicated their data reporting, while other states did not. States that experienced particular difficulty with EUC had to develop parallel sets of forms for EUC. Some states felt that, in particular, the accuracy of their reports suffered because of the number of reclassifications of claimants between UI and EUC.

A few states reported small advantages from EUC. One state was able to test a program (originally designed for extended benefits) for mailing information to claimants. Another state indicated that state agency staff understand their computer system better because EUC "tested the limits" of the system. Overall, however, the states felt that the complexity of EUC, and the continued revisions, made it impossible to complete planned activities to improve administration of the regular UI program.

E. RELATIONSHIP WITH CLAIMANTS, THE PUBLIC, EMPLOYERS, AND THE FEDERAL GOVERNMENT

Most state respondents said that, overall, they were able to maintain good relationships with claimants at a time when the UI system was strained and public expectations for unemployment compensation assistance were high. Despite the many changes in EUC and the behind-the-scenes administrative problems, state respondents thought that collecting EUC was straightforward for most claimants and that most claimants made a relatively smooth transition from UI to EUC. Claimants also appreciated the additional benefits. Nevertheless, the complexity of the program, especially the

options legislation, confused some claimants; because of the confusion, some claimants may not have applied for (or collected) all benefits they were entitled to.

Most states also thought that, in general, they could maintain good public relations, but that the frequent policy changes, in conjunction with unrealistic expectations to get benefits out quickly, affected their agencies' ability to serve claimants and led to more than the usual number of inquiries and complaints, both from the public and from elected officials. A respondent in one state felt that the frequent policy changes and the seemingly inconsistent ways claimants were treated--a claimant who filed in one week might be eligible for substantially more or less money than a claimant who filed one week later--were important hindrances to good community relations. Several respondents thought that EUC stripped the UI system of some integrity because it was a "giveaway" program. These respondents believe that EUC was provided for too long and that it discouraged claimants from seeking and obtaining work.

Employers in most states had mixed experiences. As discussed above, employers were frustrated by continued contacts by job seekers arising from the stringent work search requirements and by agency staff to verify job contacts. Many employers were confused by the flip-flopping of charges as under- and overpayments to the regular system were corrected. However, agency staff also reported that employers appreciated the provision of noncharged benefits to claimants.

Most state administrators thought they had good overall working relationships with the UI regional offices but that administering EUC caused some strains in the federal-state relationship. Most administrators reported frustration that the regions (often perceived to be caught in the same spot as the states) had difficulty interpreting the EUC legislation and disseminating information quickly. Some states thought they wasted a great deal of resources because they were unable to get guidance from their regional offices in a timely manner and because the advice received was often

incorrect or conflicting. When written instructions from the national and regional offices were eventually received, they were unduly complex because they frequently cross-referenced other memoranda. Because states were under intense pressure to get their systems modified and get benefits out to claimants, they often had to proceed without guidance or confirmation that their interpretations were correct. After implementation, states sometimes found that they had to change their systems and correct the errors generated from incorrect interpretation of the legislation. One state respondent felt that these experiences would adversely affect future contacts with the regional office.

F. CONCLUSION

Emergency extended benefits programs are inherently difficult to implement initially, but the EUC program had implementation and administrative problems throughout its duration. Emergency programs are commonly enacted after a recessionary period has begun, and implementation is expected to be rapid. In addition, emergency programs often contain reachback provisions to provide benefits to former claimants, making initial implementation difficult. The EUC program experienced these implementation difficulties, but it also had several components that made continued implementation and administration of the program difficult.

The options legislation effective during EUC-3 and -4 is the prime example. Undoubtedly, some claimants benefited from the option to collect EUC instead of UI, but the SESAs expended substantial time and resources trying to understand the options legislation, train staff, program the options legislation into their computer systems (including overriding several important computer checks that ensure accurate processing of payments), and explain the legislation to claimants. SESAs also had to correct for under- and overpayments because of the retroactivity of the options legislation, as well as allow some claimants, who could argue that they lacked sufficient information

to make an informed decision, to switch their choices. From society's perspective, it is unlikely that the gain to the claimants who chose to collect EUC instead of UI outweighed the extensive cost of implementing the options legislation.

Another example of unnecessary complexity--one that added to administrative complexity without offsetting benefits--is the five phases of EUC. Although emergency benefits programs are intended to provide benefits when needed, and it is difficult to predict the length of a recession, it would make more sense to have fewer phases, with each phase lasting slightly longer than did the EUC phases. Attempts at fine-tuning over several phases lasting only a few months are not worth the effort, particularly when claimants with periods of unemployment early in the emergency program qualify for the longer benefit durations enacted during later phases.

A final operational problem with EUC was the work search requirements. Although increased work search requirements make conceptual sense when providing emergency benefits to ensure that the disincentives of extra benefits are counterbalanced, state respondents thought it impractical to implement the more stringent work search requirements. Having work search requirements that differed from the requirements for regular UI caused the program and its administration to become more complex. At the same time, since few jobs were available, more stringent requirements may not have led to more rapid reemployment of claimants.

Eliminating some of the complexity often associated with emergency programs, such as EUC and lengthening the duration of each phase, would help minimize problems inherent in these types of programs. Although the programs may still need to be implemented quickly and address the legitimate needs of some claimants through reachback provisions, having a minimal number of components different from the regular UI program would reduce the need to modify computer programs and train staff. This would result in fewer errors in claims processing, and administrative costs might be substantially lower.