

Refer to AIM-24 for information and guidance in determining whether a waiting period is to be established for the new period of continuing sickness for these and other situations.

## **1301 Provision of Law**

Section 4(a-1) of the Act provides, in part, that:

"There shall not be considered as a day of unemployment or as a day of sickness, with respect to any employee--

\* \* \*

(iii) if he is paid a separation allowance, any of the days in the period beginning with the day following his separation from service and continuing for that number of consecutive fourteen-day periods which is equal, or most nearly equal, to the amount of the separation allowance divided (i) by ten times his last daily rate of compensation prior to his separation if he normally works five days a week, (ii) by twelve times such rate if he normally works six days a week, and (iii) by fourteen times such rate if he normally works seven days a week;"

## **1302 General Description of the Disqualification**

Under Section 4(a-1)(iii) an employee who is paid a separation allowance is disqualified from receiving either unemployment or sickness benefits. The disqualification period begins the day following the employee's separation from service. It runs for a number of consecutive 14-day periods determined by a formula taking into account the amount of the separation allowance, the employee's last daily rate of pay and the number of days in his normal work week. The disqualification lasts approximately as long as the employee would work to earn the amount of the allowance.

## **1303 Information as to Separation Allowances**

### **1303.01 Reports from employers**

Railroad employers report to the Quality Reporting Service Center (QRSC) information about separation allowances paid in connection with separations from service on Form BA-9 Report of Separation Allowance or Severance Pay. From this form, a UI-13 computer tape is created and sent to the RUIA Daily System to calculate the separation disqualification period. The form furnished to employers for this report is Form UI-13, Notice of Payment of separation Allowance. (See Exhibit A.) Form UI-13 calls for the date of the employee's separation from service; the amount of the separation allowance; the employee's occupation and last rate of pay; and whether he worked a five, six, or seven-day week or was in train-and-engine, dining-car, or sleeping-car service.

### **1303.02 Advice from claimants**

Spaces are provided on the application and claim forms for unemployment benefits and on the claim form for sickness benefits for claimants to report receipt of separation allowances from employers.

### **1303.03 Reports from district offices**

District offices report information about separation allowances to the Sickness and Unemployment Benefit Section on Form T-13, Separation Allowance Notice. (See Exhibit B.) If a district office finds out from information on a claim or from any other source that a claimant has been separated from service, it will check to find out whether he has been or will be paid a separation allowance. If so, the district office will report information about the allowance to the division of claims operations on Form T-13.

### **1304 Information Recorded on Computer Record**

When a district office reports a separation allowance, a stop is put on the BUSI tape record to prevent the payment of benefits until the employer reports the particulars; and the employer is asked for a report on Form UI-13. Upon receipt of an employer's report on Form UI-13, the duration of the disqualification period is determined; a stop is then placed on the BUSI tape record to prevent the payment of benefits for days in the disqualification period. This action is taken even if there is no previous record for the individual in the SUBS computer record.

### **1305 Considerations in Applying the Provision**

#### **1305.01 Separation allowance**

A "separation allowance" is a payment by an employer to an employee who elects to separate from service. It may be paid under the provisions of a labor-management agreement or other job-protection plan, such as the Washington Agreement, or as a result of an arrangement between the employer and the individual employee.

The disqualification for separation allowance applies when the employee receives a separation allowance, regardless of whether the employee voluntarily elected to end the employment relationship or the employee is involuntarily separated.

The separation allowance may be paid in a lump sum, or it may be paid in installments for the convenience of one or both of the parties. The method of payment does not alter the character of the allowance. It is "remuneration" and "compensation" for the month in which the employee's separation from service is effective, but it is not attributable to any particular days in the month or to any day

after the employee's separation from service. Thus no day will be denied on the ground that all or part of a separation allowance is attributable to that day. The "amount of the separation allowance" is the gross amount before any deductions.

### **1305.02 Date of separation**

The date of an employee's "separation from service" is the date as of which his employment relationship is terminated. This usually comes about on the day when he signs a paper accepting a separation allowance. In occasional cases, an employee may sign a form specifying separation on a future date; in such cases, separation would occur on the date specified. The acceptance of a separation allowance does not cause a separation to take place at some time in the past. An employee who accepts a separation allowance does not ordinarily work on the day separation takes place. An arrangement for an employee to accept a separation allowance is usually made some time after the date of the employee's last work. Thus the date of an employee's last work for an employer generally is not the date of his separation from service. Typically, the date of separation is later than the date last worked. The date of separation included in the employer's report of the separation allowance is accepted as correct in the absence of evidence to the contrary.

### **1305.03 Daily rate of compensation**

The daily rate of compensation used in determining the length of an employee's disqualification period is the rate applicable to his last work before his separation from service. The rate included in the employer's report of the separation allowance is accepted as correct in the absence of evidence to the contrary.

### **1305.04 Normal work week**

The number of days an employee "normally works" in a week is the number of days' work considered full-time for his occupation. For this purpose, employees in train-and-engine service, dining-car service, and sleeping-car service, are regarded as working seven-day weeks. The reports of separation allowance will ordinarily contain sufficient information about the work weeks of employees in other occupations; thus an employee is ordinarily regarded as working the number of days (5, 6, or 7) indicated in his employer's report of separation allowance. An employee who works part-time or intermittently is regarded as normally working the number of days in a week (5, 6, or 7) that would be full time for his occupation.

## **1306 Determining Length of Disqualification Period**

### **1306.01 General**

The method of determining the length of a disqualification period is set forth briefly below. The computer program follows this method.

## 1306.02 Determining daily rate of compensation

The employee's last daily rate of compensation is ascertained from the employer's report of the separation allowance. If the rate of pay is reported in terms other than a daily rate, it is converted to a daily rate. Conversion to a daily rate of pay is as indicated below unless there is information that such conversion would be improper. Most exceptions to these rules are covered in Appendix A to AIM-4-I,

### 1. Monthly rate

Divide by:

21.75 for 5-day-week employees

26 for 6-day-week employees

30 for 7-day-week employees, including employees in train-and-engine service, dining-car service, sleeping-car service.

### 2. Weekly rate

Divide by 5, 6, or 7, according to the number of days in the employee's normal work week.

### 3. Hourly rate

Multiply by:

8 for shop crafts, yard service, and office employees

6 for sleeping-car conductors

6 for all dining-car employees (Including stewards), porters, attendants, maids and bus boys in service on trains, except multiply by

5.8 for chair-car attendants, sleeping-car porters, all dining-car employees (including stewards) and train porters for GM&O; all dining-car employees (except stewards) for CB&Q.

### 4. 100 (or 150) miles

Consider as daily pay rate.

## 1306.03 Computation of 14-day periods

The employee's last daily rate of compensation prior to his separation from service is multiplied by 10 for 5-day-week employees; by 12 for 6-day-week employees; and by 14 for 7-day-week employees; including employees in train-

and-engine service, dining-car service, and sleeping-car service. The result is divided into the amount of the separation allowance (the gross amount--before any deductions). The net result is the number of consecutive 14-day periods for which the disqualification runs. In this resulting number, a fraction of less than one-half shall be disregarded; a fraction of one-half or more shall be increased to the next higher number.

Example 1 Employee A, a clerk, is separated from service on July 26, 1969. He is paid a separation allowance of \$7,500. His last daily rate of compensation before separation was \$23. Ten times \$23 is \$230. Dividing \$7,500 by \$230 gives 32.6, rounded to 33. Therefore the number of 14-day periods constituting the disqualification period is 33. The disqualification period starts July 27, 1969 and runs for 462 calendar days (33 14-day periods); it ends on October 31, 1970.

Example 2 Employee B, a trainman, is separated from service August 31, 1969. He is paid a separation allowance of \$10,000. His last work before separation was at the rate of \$20.83 for 100 miles. Fourteen times \$20.83 is \$291.62. Dividing \$10,000 by \$291.62 gives 34.2, rounded to 34. The number of 14-day periods constituting the disqualification period is 34. The disqualification period starts September 1, 1969 and runs through December 20, 1970.

## **1307 Determinations on Claims for Benefits**

### **1307.01 Claim including days in disqualification period**

When there is an active stop for separation allowance, the computer will deny any days in the disqualification period which are claimed as days of unemployment or as days of sickness, and will generate a referral.

### **1307.02 Claim including days after disqualification period**

An employee who is paid a separation allowance may get unemployment or sickness benefits for days after the end of the disqualification period if he is then a qualified employee and meets the usual requirements.

Example Employee C separates from service in January 1969 and is paid a separation allowance of \$6,000. The disqualification period ends January 20, 1970. From January 21, 1970 through July 7, 1970 he claims and receives BY-69 benefits. He applies for benefits in BY-70 but is found not qualified. He had only \$400 creditable compensation and one month's service for base year 1969, all of his \$6,000 separation allowance having been attributed to January 1969.

## **1308 Determining Whether Benefit Payment Erroneous**

If it is found that benefits have been paid for days in an employee's disqualification period a determination is required as to whether benefits were paid erroneously. Such determinations shall be governed by principles set forth

in AIM-21. It may generally be assumed, in this connection, that payment of benefits was not induced by fraud or other fault of the claimant if the claim or claims were made before the separation allowance was paid. It may be considered, without investigation, that claims were made before the allowance was paid if the last day for which benefits were paid is no more than two weeks after the reported date of separation from service. In other cases, information should be obtained from the claimant or the employer as to (a) the date which the claimant signed a paper accepting the separation allowance, (b) the date stated in the paper as the date of separation from service and (c) the date on which the separation allowance was paid.

### **1309 Notice to Claimant**

Notice of disqualification for separation allowance shall be sent to each claimant who is denied benefits on the basis of such disqualification. Form Letters ID-13c through ID-13f (Exhibits C through E) are provided for this purpose.

### **1310 Effective Date**

The disqualification applies in cases of separations occurring after the enactment date of the amendments, with respect to calendar days in benefit years beginning after June 30, 1968. The benefit year is the individual's benefit year, not the general benefit year. That is, no day can be denied before the first day of the employee's first benefit year beginning July 1, 1968 or later.

### **1311 Authority to Make Determinations**

The Sickness and Unemployment Benefit Section is authorized to make determinations as to disqualification for separation allowance.

### **1312 Forms and Form Letters Prescribed**

The following forms and form letters are prescribed:

UI-13	(3-68)
T-13	(2-68)
ID-13c	(6-68)
ID-13e	(6-68)
ID-13f	(6-68)

### **1313 Form Letters Superseded**

The following form letter is hereby superseded:

ID-13d	(6-68)
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## **1314 Instructions Superseded**

The following instructions are hereby supersede

