

this ruling, an unemployed father entitled to unemployment insurance benefits was prohibited from receiving AFDC-UF, even if he met the AFDC-UF eligibility requirements and payments under AFDC-UF were higher than his unemployment insurance payments. The new legislation is aimed at shifting the source of funds back to the unemployment insurance trust funds and away from Federal and State general revenues used to finance AFDC-UF. The legislation affects the 28 States that participate in the AFDC-UF program.

The law also provides, in connection with the requirements for registering for employment under the work incentive program and the unemployment insurance program, that the States and the Federal government enter into agreements to simplify the procedures for registration for work and manpower services. Where possible a single registration is to be used to satisfy the requirements of both programs.

One other change in P.L. 94-566 requires State employment offices to furnish information to welfare agencies on unemployment insurance beneficiary status for the purpose of administering the AFDC or child support programs. The State employment service is to be reimbursed by the welfare or child support agencies for the cost of supplying this information.

Details of the provisions of this law that deal directly with the unemployment insurance program are described in the note that follows immediately.

Public Law 94-585—Beginning with SSI increases after June 1977, as a condition for receiving Federal Medicaid funds, States must maintain whatever supplements they have been paying when the Federal SSI level is increased, under the provisions of this law. The requirement will be met if a State does not maintain each individual's supplement but does maintain levels that, over the 12 months following an SSI increase, cost the State as much in total payments as in the previous year. States supplementing the Federal SSI payment in December 1976 must maintain their supplements at the December 1976 level. States with no supplementation in that month who later begin supplementary payments will be required to maintain the level payable in the first month of supplementation.

Hold-harmless protection is made permanent

for the three present hold-harmless States. Increases in Federal SSI payments effective after June 1977 are to be disregarded in measuring the difference between the Federal level and the adjusted payment levels (the difference is the amount of State supplement protected by the hold-harmless provisions).

Public Law 94-569—Two provisions of this Act affect the SSI program as follows: (1) Effective October 20, 1976, the value of a home in which an individual resides will be excluded from the determination of his resources, regardless of its value and (2) for months after November 1976, SSI payments to presumptively blind applicants are authorized for up to 3 months.

Public Law 94-505—This Act establishes an Office of Inspector General in the Department of Health, Education, and Welfare. Within this office, a separate staff will have specific responsibility for antifraud and abuse activities as they relate to maternal and child health care services, Medicare, Medicaid, and the end-stage renal disease program authorized by the Social Security Act.

Public Law 94-437—This law provides for Medicare reimbursement to Indian Health Service facilities. To be eligible for such reimbursement Indian Health Service hospitals and skilled-nursing facilities must meet the Medicare conditions of participation or must submit to the Secretary of Health, Education, and Welfare an acceptable plan for meeting the requirements. In the latter case, eligibility is limited to 1 year and Medicare payments to the institution must be used to make the necessary improvements.

Unemployment Compensation Amendments of 1976*

On October 20, 1976, President Ford signed the Unemployment Compensation Amendments of 1976 (Public Law 94-566). The major features of this law affecting the Federal-State unemployment insurance system raise the amount of wages subject to the Federal unemployment tax, increase the rate of such tax, and extend coverage

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to certain previously uncovered workers¹ The law also modifies the requirements for triggering the Federal-State extended-benefit program in and out of operation in the States and establishes a national study commission on unemployment insurance

Financing Provisions

Effective January 1, 1977, the Federal unemployment payroll tax on employers is increased from 3.2 percent of taxable wages to 3.4 percent. Since the tax offset allowed to employers for participating in approved State unemployment insurance programs remains at 2.7 percent, the law in effect raises the net Federal tax from 0.5 percent to 0.7 percent. The new law also lifts the wage base (taxable portion of an employer's payroll) for the Federal and State tax from the first \$4,200 of a worker's wages in a year to the first \$6,000, effective January 1978. States may continue to subject higher amounts of annual earnings to taxation.

The proceeds from the Federal tax are used to provide a loan fund for States with depleted reserves and to meet (1) the costs of administering the unemployment insurance program at the Federal and State level, (2) most of the cost of administering public employment services, (3) half the cost of benefit payments under the extended-benefit program (for workers exhausting their regular State benefits), and (4) all the cost of the temporary emergency benefit program (for workers exhausting both regular and extended benefits).² The cost of regular State benefits and half the cost of extended benefits are met from the proceeds of State unemployment taxes.

Because of the heavy demands on the unemployment insurance system made by the high levels of unemployment in the past few years

¹ For a description of provisions in this law that affect other Social Security Act programs, see the preceding note in this issue.

² For a description of the extended-benefit and temporary emergency benefit programs, see Alfred M. Skolnik, "Unemployment Insurance Benefits Temporarily Expanded," *Social Security Bulletin*, June 1975, pages 42-44, and Rojean S. Madsen and Alfred M. Skolnik, "The Emergency Compensation and Special Unemployment Assistance Extension Act of 1975," *Research and Statistics Note*, No. 12, September 18, 1975.

and by the enactment of temporary legislation providing benefits of up to 65 weeks' duration, the unemployment payroll taxes—both Federal and State—have proven insufficient. At the present time, 21 jurisdictions have depleted their unemployment insurance reserves.

Advances from the general funds of the Treasury are made to the Federal accounts of the trust funds when the latter have insufficient funds (1) to meet State borrowing requests and (2) to cover the Federal responsibility for paying half the cost of extended benefits and all the costs of emergency benefits. As of October 1, 1977, advances from the general fund amounted to about \$10.9 billion.

The new law provides that the 0.7-percent tax will continue into effect until all general revenue advances to the extended-benefit account in the unemployment trust fund have been repaid, the net tax rate of 0.5 percent will then become applicable again.

Under the new legislation, when the States find it necessary to borrow from the Federal accounts in the unemployment trust fund to meet their unemployment benefit obligations, they may apply for loans covering a 3-month period, instead of a 1-month period.

Coverage

Beginning January 1, 1978, about 8.6 million jobs will be added to the 72.4 million presently covered under Federal and State unemployment insurance laws. About 600,000 of the new jobs will be covered through extension of the Federal Unemployment Tax Act (FUTA) and the remainder through State action required as a condition for providing all other employees in the State with the existing credit against the Federal unemployment tax.

Most of the newly covered workers have been temporarily covered under the federally financed special unemployment assistance (SUA) program, which was scheduled to expire on December 31, 1976.³ Public Law 94-566 extends the SUA program for a year, thus preventing any gap or interruption in protection for those agricultural workers, domestic workers, and State and local government employees who will be

³ See footnote 1 for details of SUA program.

brought into the permanent Federal/State program under the new law

FUTA changes—Coverage is extended to agricultural workers if the farm operator, in either the current year or the preceding year, has a payroll of at least \$20,000 in any calendar quarter or has 10 or more employees in 20 weeks during the year. Previously, farm employment had been exempt from the Federal unemployment tax and was covered only at the option of the States. This extension of the Federal unemployment payroll tax has the effect of bringing farm employment meeting these criteria within the coverage of all State unemployment insurance laws. An estimated 460,000 farm workers or about 40 percent of all farm jobs will be subject to the Federal unemployment tax.

For farm workers hired by a farm labor contractor ("crew leader") rather than by the farm operator, the new law provides generally that the crew leader will be considered the employer if he is registered under the Farm Labor Contractor Registration Act of 1963 or if substantially all members of the crew operate or maintain mechanized equipment.

The act exempts from this coverage aliens who are brought into the United States on a temporary basis to work during peak agricultural crop seasons, in accordance with provisions of the Immigration and Nationality Act. This exemption from coverage expires January 1, 1980.

Also newly subject to the Federal unemployment tax are those in domestic employment in private households if the employer pays domestic wages of \$1,000 or more in any calendar quarter of the current or preceding year. Previously, such employment had been exempted and only three State unemployment insurance programs covered such workers voluntarily. The new provision, covering an estimated 130,000 domestic jobs, effectively requires domestic employment coverage under all State programs.

State changes (not covered by FUTA)—States must extend coverage to State and local government employees and to nonprofit elementary and secondary schools employing four or more persons in 20 weeks in the current or preceding calendar year as a condition of continued participation in the Federal-State unemployment insurance system. (Failure to participate would, in

effect, raise the Federal unemployment tax on employers from 0.7 percent to 3.4 percent and would deprive the State of Federal funds to meet administrative expenses and part of the extended benefit costs.) Such employing entities have the option of reimbursing the State for unemployment insurance payments attributable to service for them or of paying the regular State unemployment taxes.

All State and local government employees will be covered except elected officials, members of the legislature or judiciary, persons in policymaking or advisory positions that are designated as major nontenured positions, members of the National Guard, prisoners, and persons hired during certain emergencies.

Under legislation enacted in 1970, States were required to provide unemployment insurance only for employees of State-operated hospitals and institutions of higher education. About half the States, however, have gone beyond this Federal requirement and provide mandatory coverage for State employees and permit local governments to opt for coverage. The new law extends coverage to an estimated 600,000 State employees not previously covered and to about 7.7 million employees of local governments.

A special provision is included in the law with respect to school employees during vacation periods. Benefits are not provided for professional school employees (and those in institutions of higher learning) with contract for, or reasonable assurance of, reemployment during the post-vacation term. The law also permits States to deny benefits to nonprofessional school employees during vacation periods, on the same basis.

The law now requires States to provide coverage for nonprofit elementary and secondary schools, as for other nonprofit entities. A 1970 law had exempted nonprofit schools from coverage under the provisions covering nonprofit employers with at least four employees in at least 20 weeks of the year.

The new coverage provisions under P L 94-566 will be effective as of January 1, 1978. To provide a smooth transition, the law provides for Federal reimbursement of benefit costs where States agree to pay benefits to newly covered workers as of January 1, 1978, based on wage credits earned before that date. States will also be reimbursed for benefits paid before July 1, 1978, on the basis

of newly covered employment during the first 6 months of 1978. Federal reimbursement from general revenues was justified on the grounds that, otherwise, newly covered workers in most States will not accumulate enough wage credits to qualify for benefits until the last quarter of 1978.

A special provision is included in the new law to eliminate the 50-percent Federal funding of extended benefits for State and local government employees, since this employment is exempt from the Federal unemployment tax, which helps finance the extended benefits. The Federal accounts, however, will continue to pay the administrative costs attributable to coverage of State and local government employees.

Extended-Benefit Triggers

The factors used in triggering in the permanent extended-benefit program initiated by the Federal-State Extended Unemployment Compensation Act of 1970 have been revised under the new law. This program pays up to 13 additional weeks of benefits to individuals who exhaust their benefit entitlement under the regular State programs in periods of high unemployment.

Under the 1970 act, extended benefits were payable in all States when the national insured unemployment rate on a seasonally adjusted basis reached 4.5 percent for 3 consecutive months, and the program was to continue in effect until that rate declined below 4.5 percent for 3 consecutive months. The new law provides that the program will be in effect in all States when the 4.5-percent national insured unemployment rate (seasonally adjusted) for a given week and for the 12 previous weeks averages 4.5 percent or more and ceases when that rate averages less than 4.5 percent. (The national trigger rate has been "on" since the end of 1974.)

The 1970 legislation also provides that when the national trigger is not "on," extended benefits may be paid in individual States if two requirements are met: (1) the rate of insured unemployment in the State (not seasonally adjusted) must reach a level of 4 percent or more, averaged over a 13-week period and (2) the rate for that 13-week period must be at least 20 percent higher than the average of the State insured unemploy-

ment rate in the same 13-week period of the 2 preceding years. Since October 1972, Congress in a series of actions has permitted the States to waive the "20 percent higher" provision. The latest waiver was scheduled to expire in March 1977. The new law provides that after that date States will continue to be permitted to suspend the "20 percent higher" requirement whenever the rate of insured unemployment in the State averages at least 5 percent for the 13-week period.

Unchanged by the new law are the provisions requiring that the extended-benefit program pay the same weekly benefit amount as under the regular entitlement (including dependents' allowances) continuing for half as long as under the regular entitlement—with an overall limitation on regular and extended benefits of 39 weeks (39 times weekly benefit). Half the funding of the extended benefits comes from State unemployment taxes, and half comes from the Federal unemployment payroll tax.

Benefit Eligibility

A series of provisions in the new law refines the requirements for eligibility for unemployment compensation:

1. States may not continue to enforce any provision that denies unemployment insurance benefits solely on the basis of pregnancy or recency of pregnancy. Pregnant women, however, still must meet generally applicable criteria of seeking work, availability for work, and ability to work.

2. States may not pay benefits to a professional athlete during periods between two successive sports seasons if there is reasonable assurance that he will participate in such sports during the following season.

3. States may not pay benefits to an alien unless he has been lawfully admitted to the United States for permanent residence.

4. States will be required, after September 30, 1979, to reduce unemployment insurance benefits by the amount of any public or private pension (including retirement benefits under the social security and railroad retirement programs) based on the claimant's previous employment.

Extension of SUA Program

As already noted, the new legislation extends the special unemployment assistance program through December 1977. This program was

originally established by P L 93-567 (December 31, 1974) to provide temporary unemployment assistance for workers—mainly farm workers, domestic workers, and State and local government workers—lacking sufficient covered employment to qualify for a regular unemployment insurance benefit. The new law provides that claims filed by December 31, 1977, could continue in payment status through June 1978.

Public Law 94-566 also changes the base period used for determining an individual's eligibility for SUA. Under previous law, the base period was the 52-week period preceding the first week with respect to which the individual files a claim. The base period is now changed to correspond with the base period that is used under the regular State unemployment compensation program. The law also places nonprofessional employees of schools in the same position as professional school employees by denying them eligibility for SUA payments during vacation periods when they have reasonable assurance of employment for the post-vacation school term.

Other Provisions

The new law establishes a National Commission on Unemployment Compensation with 13 members to undertake a comprehensive examination of the present unemployment insurance system and its problems and goals and to develop appropriate recommendations. The Commission is to consist of three members appointed by the President pro tempore of the Senate, three members by the Speaker of the House, and seven by the President. Selection of members of the Commission are to be aimed at assuring balanced representation of interested groups—including at least one representative each of labor, industry, small business, and the various levels of Government. The deadline for a final report is January 1, 1979.

Public Law 94-566 provides for incorporation of the Virgin Islands unemployment insurance system into the Federal-State system. The law extends to that jurisdiction the Federal unemployment tax, and the extended-benefits program as well, and permits the Federal trust funds to finance the administrative costs of the Virgin Islands program and to lend money to that system if it cannot meet its benefit obligations.

Widowed-Father Beneficiaries*

Since 1940, widowed mothers, regardless of their age, have been eligible for social security cash benefits if they had children under age 18 in their care. In 1957, their eligibility was extended if they had in their care children aged 18 or older and disabled. Although the children of deceased women workers have been eligible for benefits since 1950, a widowed father with children in his care was not eligible.

On March 19, 1975, the Supreme Court of the United States decided that the Social Security Act violated the right to equal protection by the due process clause of the 5th amendment, since it provided benefits to mothers but not to fathers in similar circumstances.¹ According to the Court, the act thus discriminated against women wage earners by affording them less protection for their survivors than was provided for men. (This ruling affirmed an earlier decision of the U.S. District Court of New Jersey.) The decision qualified widowed fathers for social security benefits effective March 1975, and the first benefit awards were made in June 1975. These awards, as well as those made throughout 1975, included any retroactive benefits from March 1975.

The data presented here on the number and amount of benefits awarded to fathers from June through December 1975 were derived, on a 100-percent basis, from the social security master beneficiary record, which contains detailed data on all beneficiaries.

Number and Amount of Benefit Awards

In the last 7 months of 1975, benefits were awarded to 4,707 widowed fathers and to 62,227 widowed mothers. The average monthly father's benefit was \$99.50. Widowed mothers' benefits averaged \$158.40. The underlying primary insurance amounts (PIA's)² averaged \$176.70 for widowed fathers and \$278.90 for widowed mothers (table 1). Thus, both the average award and the

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¹ *Wemberger v Wisenfeld*, U.S. Supreme Court, March 19, 1975, reprinted in U.S. Senate, Special Committee on Aging, *Women and Social Security: Adapting to a New Era*, 94th Cong., 1st sess., October 1975, page 45.