

Insights: Alerts

CARES Act | Unemployment Guidance Issued by DOL

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Please note: The below information may require updating, including additional clarification, as the COVID-19 pandemic continues to develop. Please monitor our main [COVID-19 Task Force page](#) and/or your email for updates.

On Saturday, April 4, 2020 and Sunday, April 5, 2020, the U.S. Department of Labor issued two new rounds of guidance to states regarding the expanded unemployment insurance benefits available to workers affected by the COVID-19 pandemic.

UIPL 15-20

This guidance provides clarity concerning section 2104 of the CARES Act— Federal Pandemic Unemployment Compensation benefits. The FPUC provides for a temporary emergency increase in unemployment compensation benefits and includes funding to the states for the administration of the program. Under the program, eligible individuals are provided \$600 per week in addition to the weekly benefit amount they receive from other unemployment compensation programs. The additional \$600 applies to employees who receive benefits under the following programs:

- Regular state and federal unemployment compensation
- Pandemic Emergency Unemployment Compensation
- Pandemic Unemployment Assistance
- Extended Benefits
- Short-Time Compensation
- Trade Readjustment Allowances
- Disaster Unemployment Assistance
- Payments under the Self-Employment Assistance program

The additional \$600 per week is not available to employees in certain training programs in which their state provides “additional benefits” under state law. In order to qualify for the FPUC \$600 benefit, an individual must have received a nominal amount (\$1) of regular unemployment compensation benefits for a given workweek. While it would seem that a person entitled to regular unemployment benefits would meet the \$1 threshold, this is not necessarily the case. For example, an individual that works part-time—who may be otherwise eligible for unemployment compensation—will not be eligible for the \$600 payment if they receive \$0 in regular

unemployment compensation for that week because their compensation for that week exceeds the state's weekly benefit amount. If an employer seeks to reduce an employee's hours, but wants to make sure that they are eligible for the additional \$600, the employer should schedule an employee's hours so that the employee's compensation is below the state's weekly benefit amount.

Payments under the FPUC are available starting on or after the date on which the state enters an agreement with the DOL through the week unemployment ends, which is on or before July 31, 2020. Currently, all states have entered into an agreement with the DOL. The FPUC is fully federally funded and states are not allowed to charge employers for FPUC benefits.

UIPL 16-20

This guidance provides clarity on the Pandemic Unemployment Assistance (PUA) provisions of section 2102 of the CARES Act. PUA benefits are available to workers who are not eligible for unemployment benefits under state law (including independent contractors, the self-employed, and those who have exhausted regular employment benefits) and are unemployed due to certain COVID-19 related reasons. These circumstances include:

- An individual who has quit their job as a direct result of COVID-19 because the individual has been diagnosed with the virus and cannot work (or telework) because of the diagnosis;
- An individual is providing care for a family member, or member of the household, who has been diagnosed with COVID-19 and the provision of care significantly precludes their ability to perform work;
- An individual is the primary caregiver of a child or household member who is unable to attend their regular school or facility (the guidance specifically says that this exemplifies that PUA benefits will often be short-term—benefits are not available after the time that a school year has ended);
- An individual cannot reach their place of employment because doing so would violate a state or municipal travel restriction order;
- An individual's immune system is compromised by a serious health condition and they have been advised by a health-care provider to self-quarantine to avoid the greater-than-average individual health risk;
- An individual is scheduled to begin employment but has had the offer rescinded as a direct result of COVID-19;
- An individual diagnosed with COVID-19 but no longer has the virus and, although no longer affected by the virus, has health complications arising from the infection rendering them unable to perform the essential functions of their job with or without a reasonable accommodation;
- An individual's place of employment is closed due to an emergency declaration or "necessary social distancing protocols"; or
- An individual works as an independent contractor (with reportable income) and is unemployed, partially unemployed, or unable/unavailable to work because COVID-19 has limited their availability to perform customary work activities.

Individuals that are receiving paid leave or have the ability to telework are not eligible for PUA. However, an individual who is receiving paid leave or teleworking for less than their typical weekly pay may be entitled to PUA benefits. States may begin making PUA benefits after they have entered into an agreement with the DOL, and PUA benefits are fully federally funded.

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