GBS Compliance

Unemployment Benefits for Coronavirus under the CARES Act

April 15, 2020

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, enacted on March 27, 2020, provides federal funding to expand the availability of unemployment insurance (UI) benefits during the coronavirus (COVID-19) public health emergency. Under this law, virtually all types of workers, even those who otherwise would not qualify for UI benefits, may receive payments for up to 39 weeks of unemployment under certain circumstances.

The CARES Act also provides funding for states to waive any waiting week requirements for UI benefits during the COVID-19 pandemic and to provide an additional $600 per week to all individuals receiving UI benefits for weeks of unemployment ending before July 31, 2020.

The first week for which these benefits are available generally depends on when a particular state enters an agreement with the U.S. Department of Labor (DOL) to administer them. According to the DOL, all states have executed agreements as of March 29, 2020.

This Compliance Bulletin provides a summary of the CARES Act's expanded UI benefit provisions and includes information from related guidance issued by the DOL on April 2, 2020, and on April 4, 2020. Additional guidance is expected in the near future.

Highlights

Unemployment Expansion

The CARES Act provides federal funding for states to expand the availability of unemployment benefits for COVID-19. Qualified individuals may receive benefits for up to 39 weeks.

Newly Eligible Workers

Independent contractors and other workers who would not otherwise qualify may receive benefits if they are out of work due to COVID-19.

Extra $600 per week

Individuals who receive unemployment benefits for weeks ending before July 31, 2020, will receive an additional $600 for each of those weeks.

Benefit Amounts and Timelines Depend on State

State agencies are responsible for administering the expanded benefits. Weekly benefit amounts and other details depend on state law.

Action Steps

Employers should become familiar with the expanded benefits available under the CARES Act and advise any workers who may qualify for them to apply through the UI agency of the state in which the workers were employed. Employers should also monitor DOL and applicable state websites for guidance on how the benefits will be administered.

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Pandemic Unemployment Assistance (PUA) Benefits for Unemployment due to COVID-19

The CARES Act allows individuals who are unemployed because of the COVID-19 pandemic to receive temporary UI benefits called Pandemic Unemployment Assistance (PUA). Eligible individuals include workers who would not otherwise qualify for UI benefits under their applicable state (or federal) law for any reason, such as because they:

- ✔ Are self-employed;
- ✔ Are seeking part-time work; or
- ✔ Do not have sufficient work history.

An individual may receive PUA benefits for **up to 39 weeks** if he or she is otherwise able to work and available for work (as defined under state law), but is unemployed, partially unemployed, or unable or unavailable to work because of at least one of a variety of specified reasons related to COVID-19. The table below provides an outline of these specified reasons. The DOL may establish additional qualifying reasons.

An individual may receive PUA benefits if he or she is not working because:	
Diagnosis	The individual has symptoms of COVID-19 and is seeking a medical diagnosis; The individual or a member of his or her household has been diagnosed with COVID-19; The individual is caring for a family member or a member of his or her household who has been diagnosed with COVID-19;
Child Care	A child or other person in the individual's household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency, and that school or facility care is required for the individual to work;
Quarantine	The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency; The individual is unable to reach the place of employment because he or she has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
New job loss	The individual was scheduled to commence employment but does not have a job or is unable to reach the job as a direct result of COVID-19;
Death	The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
Has to quit	The individual has to quit his or her job as a direct result of COVID-19; or
Closed workplace	The individual's place of employment is closed as a direct result of the COVID-19 public health emergency.

However, an individual is not eligible for PUA benefits if he or she is:

- ✖ Able to telework; or
- ✖ Receiving paid leave benefits of any kind.

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Individuals who are eligible for PUA benefits may receive them for weeks of unemployment that started on or after **Jan. 27, 2020**, and end on or before **Dec. 31, 2020**. The CARES Act directs the DOL to establish a process for states to provide these benefits retroactively.

The weekly amount of an individual's PUA benefit depends on how the individual's UI benefit is calculated under the applicable state UI law. For weeks of unemployment ending on or before July 31, 2020, the weekly amount determined under state law is increased by the extra $600-per-week benefit discussed after the section below.

Pandemic Emergency Unemployment Compensation (PEUC): A 13-Week Extension

The CARES Act provides federal funding for states to administer Pandemic Emergency Unemployment Compensation (PUEC) benefits. These benefits are available for **up to 13 weeks** of unemployment to individuals who:

- ✔ Have exhausted all rights to regular UI benefits under the applicable state (or federal) UI law for a benefit year ending on or after July 1, 2019;
- ✔ Have no rights to regular UI benefits under any state or federal law;
- ✔ Are not receiving benefits under the unemployment compensation law of Canada; and
- ✔ Are able to work, available to work and actively seeking work.

Because most state UI laws provide regular UI benefits for a maximum of 26 weeks in a benefit year, the PEUC provision means that many individuals may receive UI benefits for a total of up to 39 weeks (the 26-week state maximum plus 13 weeks of PEUC benefits). Accordingly, in any of the five states where the state UI maximum is 20 weeks (Idaho, Michigan, Missouri, North Carolina and South Carolina), an individual may qualify for a total of up to 33 weeks of benefits. (Three other states also have lower maximums. These include Florida (12 weeks) Georgia (14 weeks) and Kansas (16 weeks)).

As noted above, an individual must be actively seeking work in order to qualify for PEUC benefits. This means that an individual must:

- ✔ Be registered for employment services as required by the applicable state agency;
- ✔ Engage in an active job search that is appropriate in light of the jobs in the labor market and the individual's skills and capabilities and that includes a number of employer contacts consistent with state standards;
- ✔ Maintain a record of his or her work search that includes employers contacted, method of contact and date contacted; and
- ✔ When requested, provide the work search record to the state agency.

However, the CARES Act requires states to be flexible with this requirement in cases where individuals are unable to search for work because of COVID-19, such as because of illness, quarantine or movement restriction.

In general, all other terms and conditions of a state law that apply to claims for (and payments of) regular UI benefits apply to claims for PEUC as well.

The amount of an individual's weekly PEUC benefit is the individual's regular UI benefit amount under state law for a week of total unemployment. For weeks of unemployment ending on or before July 31, 2020, that weekly amount is increased by the extra $600-per-week benefit discussed below.

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Federal Pandemic Unemployment Compensation (FPUC): The Extra $600 per Week

The CARES Act allocates federal funding for states to provide an additional $600-per-week benefit, called Federal Pandemic Unemployment Compensation (FPUC), to any individual who is receiving UI (including PUA and PUEC) benefits for weeks of unemployment ending on or before July 31, 2020. The beginning date for FPUC benefits depends on when the applicable state entered an agreement with the DOL to provide them.

The $600 FPUC benefit is taxable as income but does not affect an individual's eligibility for Medicaid or the Children's Health Insurance Program (CHIP).

Under DOL guidance, states must issue FPUC payments as soon as administratively feasible. States have some flexibility in how they issue these payments. Specifically, states may pay the additional $600 either:

- As an amount that is paid at the same time and in the same manner as any regular UI otherwise payable for a week of employment; or
- At the option of the state, by payments that are made separately from, but on the same weekly basis as, any regular UI otherwise payable.

The DOL's guidance also clarifies that:

- The full $600 FPUC benefit will be paid to any claimant who is eligible for at least $1 of underlying UI benefits for a particular week of unemployment;
- Individuals whose underlying UI benefit payments are intercepted to pay debts are eligible for the full $600 FPUC benefit, even if the entire payment is intercepted;
- Child support obligations must be deducted from FPUC payments in the same manner and to the same extent as these obligations are deducted from regular UI benefits; and
- Because the FPUC benefits are available for weeks of unemployment beginning on or after the date on which a state executed an agreement with the DOL but ending on or before July 31, 2020, FPUC benefits are generally subject to the timelines outlined in the table below.

In states where an unemployment week ends on a:	
Saturday	• The first week for which FPUC benefits may be paid is the week ending April 4, 2020, provided an agreement was in place no later than March 28, 2020; and • The last week that FPUC benefits may be paid is the week ending July 25, 2020.
Sunday	• The first week for which FPUC benefits may be paid is the week ending April 5, 2020, provided an agreement was in place no later than March 29, 2020; and • The last week that FPUC benefits may be paid is the week ending July 26, 2020.

The information is provided as educational material only and is not intended as legal, financial or tax advice. Consult your legal counsel for complete details on your compliance requirements for your plan(s).

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