

Summary: On March 27, 2020, President Trump signed the [Coronavirus Aid, Relief, and Economic Security](#) (CARES) Act. In this alert, we outline how the CARES Act (1) expands the scope of individuals who are eligible for unemployment insurance (UI) and (2) for individuals who are normally eligible for UI, increases the amount the individual receives. The Act also implements several changes to facilitate the administration of benefits.

Temporary Expansion of Unemployment Insurance

The CARES Act temporarily enhances and expands unemployment insurance (UI) benefits through three key programs. To participate in the programs, each state must enter into an agreement with the federal government. The basics of each program are as follows:

1. Pandemic Unemployment Compensation (PUC) (Section 2104 of the CARES Act)

- *Who is Eligible:* Individuals who, as determined by the applicable state unemployment agency, meet that state's criteria to receive UI benefits.
- *Benefit Provided:* The law provides an increase of a flat payment of \$600 per week to the amount regularly available for unemployment under state law.
- *Additional Criteria that Must be Met to Receive PUC:* None
- *Time Period for Increased Compensation:* This increase applies to weeks of unemployment beginning after the state agrees to participate in the program through July 31, 2020 (approximately four months).

2. Pandemic Unemployment Assistance (PUA) (Section 2102 of the CARES Act)

- *Who is Eligible:* Individuals who are not usually eligible for unemployment benefits, including those who are furloughed or out of work as a direct result of COVID-19, self-employed and independent contractors, and those who have exhausted existing state and federal unemployment benefit provisions.
 - *Important Note: Individuals who have the ability to telework with pay and those who are receiving paid sick leave or other paid benefits (even if they otherwise satisfy the criteria described below to receive assistance under the new law) are expressly excluded from coverage.*
- *Benefit Provided:* The PUA will equal the minimum weekly benefit amount described in the Stafford Act Disaster Unemployment Assistance (DUA) program, which is the model for the PUA program (CFR 625.6 of Title 20), **plus** the \$600 per week federally funded supplement (similar to that provided to UI recipients under the PUC).
- *Additional Criteria that must be Met to Receive the PUA:* Applicants for PUA must provide self-certification that they are (1) partially or fully unemployed or (2) unable and unavailable to work because of one of the following circumstances:
 - the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;

- a member of the individual's household has been diagnosed with COVID-19;
- the individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- a child or other person in the 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 such school or facility care is required for the individual to work;
- 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 the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- 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;
- the individual has to quit his or her job as a direct result of COVID-19;
- the individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
- the individual meets other criteria established by the Secretary of Labor.
- *Time Period for Expanded Compensation:* January 27, 2020 through December 31, 2020.

3. **Pandemic Emergency Unemployment Compensation (PEUC) (Section 2107 of the CARES Act)**

- *Who is Eligible:* UI recipients who exhaust all of their regular state UI benefits, which range from as few as 12 weeks to a maximum of 26 weeks depending on the state
- *Benefit Provided:* Additional 13 weeks of state UI benefits
- *Additional Criteria that Must be Met to Receive PEUC:* Individuals must have exhausted their regular state UI benefits and be actively engaged in searching for work
- *Time Period for Extended Benefits:* The benefits extension is available through December 31, 2020, unless otherwise extended.

Other Key Provisions

Other key UI-related provisions in the CARES Act include:

- *Requirement that States Not Modify Existing UI Statute to Reduce Benefits:* If a state enters into an agreement with the federal government to participate in the PUA, PUC, or PEUC programs, the participating state is prohibited from taking

any action that would decrease the maximum number of weeks of UI benefits or the weekly benefits available under state law as of January 1, 2020.

- *Waiver of One-Week Waiting Period:* Most states have a mandatory one-week waiting period for individuals to receive UI benefits. The CARES Act states, however, that if a state waives the one week waiting period, the federal government will reimburse the state for that week of UI benefits paid to the individual.
- *Short-Time Compensation Programs:* The CARES Act provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying them off, and the employees with reduced hours receive a pro-rated unemployment benefit. This provision does not provide new or additional benefits; rather, it provides federal funding for these programs through December 31, 2020. For states with existing short-time compensation programs, the federal government will fully fund the state’s program. For states that implement such a program after the passage of the CARES Act, the federal government will fund the program at a rate of 50%, making the state responsible for paying one-half of the short-time compensation to the individual employee.

Top Five Frequently Asked Questions

1. Is the \$600 paid on top of state level UI benefits or is the \$600 designed to raise the individual’s state UI benefit to a total of \$600?

Answer: The federally funded UI payment is a flat \$600 that is paid to the individual in addition to the individual’s UI weekly benefit as calculated by the state.

2. If an employee is not terminated but his/her hours are reduced, will the employee receive the federally funded \$600 UI supplement?

Answer: Payment of the \$600 federally funded supplement is entirely dependent on whether, under state law, the individual is awarded unemployment benefits. In other words, the individual’s award of UI benefits under state law is the event that triggers the payment of the \$600 federal supplement. Thus, whether and to what extent an employee can receive unemployment benefits, including partial unemployment benefits based on, for example, reduced hours, will be determined by existing state law governing the requirements to qualify for unemployment benefits. Many states are modifying existing unemployment laws and regulations to expressly allow partial unemployment benefits where an employee’s hours are reduced due to COVID-19 related reasons. In the event that an individual is not entitled to unemployment benefits under state law, the individual may be eligible for assistance under the PUA program.

3. Since the federally funded \$600 supplement is paid on top of the UI benefit calculated by the state, will individuals receive more money than they would have otherwise earned actively working?

Answer: It is possible. In fact, prior to the bill’s passage, a group of Senators expressed concern about whether these provisions would allow employees to

collect more income than they otherwise would if they had retained their job, incentivizing employees to remain out of work. The proposed amendment identifying this concern was rejected in a vote by the Senate.

4. Are PUC or PEUC-related benefits chargeable to the employer?

Answer: PUC, PEUC, and PUA are fully federally funded. States also will receive additional administrative funds to operate these programs. Whether the UI benefit, as calculated under state law, is chargeable to an employer is not addressed in the CARES Act. Therefore, whether the state where the individual works deems the unemployment or partial unemployment to be chargeable to the employer will be governed by state law. Many states are modifying existing laws to automatically recognize COVID-19 related unemployment and partial unemployment as a non-chargeable event.

5. How do individuals file for unemployment insurance, including the federal \$600 supplement?

Answer: Individuals can apply for unemployment compensation through the unemployment office in the state where the individual worked. In most states, you can apply online. The federally funded \$600 supplement will be distributed by the state unemployment office. The law allows the states to pay the supplement with the state calculated UI benefit or separately so long as the payment is made on a weekly basis.