



# CARES ACT

## Unemployment Analysis and FAQs

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The Coronavirus Aid, Relief, and Economic Security (CARES) Act created three major new unemployment compensation programs to supplement the traditional statutory benefits: Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC).

Unemployment Insurance Program Letters (UIPLs) [15-20](#), [16-20](#) and [17-20](#) provide guidance to states in disbursing Federal Pandemic Unemployment Compensation (FPUC) and Pandemic Unemployment Assistance (PUA), respectively.

The FPUC, PUA, and PEUC programs, along with other CARES Act provisions applicable to unemployment insurance, were summarized by the U.S. Department of Labor (DOL) in [UIPL 14-20](#).

Regarding all these programs, the DOL makes the point that quitting a job without good cause to obtain unemployment benefits would be considered fraud, and that states should be enforcing their antifraud provisions in this context.

“As a practical matter, however, concerns remain, given the broad expansion of the law Congress enacted and how states will enforce the requirement that an employee must have ‘good cause’ to quit and still be eligible for UI,” Littler attorneys observed in a blog post. “State unemployment offices may struggle to enforce good cause due to the simple inability to contest some of the reasons for benefits, which are subjective in nature or may not be readily verifiable by objective means.”

### **Federal Pandemic Unemployment Compensation (FPUC)**

The FPUC program allows states to provide an additional \$600 weekly benefit to individuals who are collecting regular unemployment compensation.

FPUC benefit payments under CARES Act Section 2104 are fully federally funded and may begin as soon as the week after the execution of a signed agreement between the state and the DOL. Such agreements had been signed for all states by March 28. States may not charge employers for any FPUC benefits paid so as to affect the employer’s experience rating, the DOL noted.

As states begin providing this payment, eligible individuals will receive retroactive payments back to their date of eligibility or the signing of the state agreement, whichever came later. The CARES Act specifies that FPUC benefit payments will end after payments for the last week of unemployment before July 31, 2020.

UIPL 17-20 also includes guidance to states about protecting unemployment insurance program integrity, as the CARES Act provisions are designed to operate in tandem with the fundamental eligibility requirements of the federal-state unemployment insurance program. The DOL is working with states receiving funding under the act to provide unemployment benefits only to those who are entitled to them.

## **Pandemic Unemployment Assistance (PUA)**

PUA, authorized by Section 2102, is available to individuals not eligible for regular unemployment compensation or extended benefits under state or federal law or PEUC, including those who have exhausted all rights to such benefits. Covered individuals also include self-employed individuals, those seeking part-time employment, and individuals lacking sufficient work history.

PUA provides up to 39 weeks of benefits to qualifying individuals who are otherwise able to work and available for work within the meaning of applicable state law, except that they are unemployed, partially unemployed, or unable or unavailable to work for COVID-19-related reasons, as defined in the CARES Act.

Depending on state law, covered individuals may also include clergy and those working for religious organizations who are not covered by regular unemployment compensation. Benefit payments under PUA are retroactive, for weeks of unemployment, partial employment, or inability to work due to COVID-19 reasons from January 27 through December 31, 2020. For weeks of unemployment between March 27 and July 31, 2020, individuals eligible to receive PUA may also receive FPUC.

PUA is generally not payable to individuals who can telework with pay or are receiving paid sick leave or other paid leave benefits, the DOL noted in UIPL 16-20. However, individuals receiving such paid leave for less than their customary work week may still be eligible for PUA.

The PUA weekly benefits amount (WBA) is equal to the WBA authorized under state unemployment compensation law where the individual was employed. For individuals without enough reported wages to establish a WBA, it will be calculated according to the process set out by federal law for Disaster Unemployment Assistance.

## Pandemic Emergency Unemployment Compensation (PEUC)

The CARES act also authorized Pandemic Emergency Unemployment Compensation (PEUC), which offers up to 13 weeks of additional benefits to those who have exhausted benefits under regular unemployment compensation or other programs.

The up to 13 weeks of extra benefits available as PEUC under Section 2107 apply to weeks of unemployment beginning when the state enters into an agreement with the DOL and ending December 31, 2020. This program covers individuals who have exhausted all rights to regular UC under state or federal law and remain able to work, available for work, and actively seeking work.

However, states must offer flexibility in meeting the “actively seeking work” requirement if an individual cannot search for work because of COVID-19—for example, due to illness, quarantine, or movement restriction. A state may not change its regular computation method so as to reduce the average WBA or the number of weeks of benefits payable (i.e., maximum benefit entitlement).

## FAQs

**Q1.** Where can I find more information regarding State Unemployment Insurance guidelines?

Response: <https://oui.doleta.gov/unemploy/coronavirus/>

**Q2.** How does unemployment normally work?

Response: Normally, unemployment benefits provide roughly 2/3 of a person’s normal salary (for a completely unemployed employee) to the State’s maximum benefit amount; usually, around \$450.00/week. So, if an employee is paid \$15.00/PH and normally works 40 hours in a week, they would earn \$600.00 (gross) per week; 2/3 is \$396.00. If awarded the maximum unemployment benefit amount, the difference between the \$450.00 maximum unemployment benefit and the 2/3 amount is \$54.00.

Most states also have a minimum amount of unemployment benefits a person can be awarded. In the State of Arkansas, the minimum amount is \$81.00 per week. In the example, the decrease in pay is not significant enough to breach the minimum threshold to receive unemployment benefits.

For this person to be able to receive any unemployment benefits, they would need to have their hours reduced again by roughly 5-10 hours per week.

**Q3.** We've reduced most of our full-time hourly team to 30 hours. Are they eligible for partial unemployment?

Response: If an employee's hours are reduced, for any reason other than for disciplinary measures, they can file for unemployment benefits to try to make up the difference in the lost wages. The DWS will look at the circumstances for the reduced hours (wages) to make their Determination regarding the receipt of benefits. The process typically will fall under one of these situations:

- ❖ Jethro applies for unemployment benefits. Jethro earns \$15.00/PH and normally grosses around \$600.00/week but now his hours/days are reduced including completely not working in some weeks.
- ❖ The DWS reviews Jethro's case and awards her \$396.00/week in unemployment benefits if he is completely off work.

**Scenario 1:** Jethro hours are reduced; he only worked 10 hours this week earning \$150.00. Jethro will report the earnings (when he files his weekly claim - normally the Sunday or Monday following the work week - The DWS work week is Sunday through Saturday). The DWS will reduce Jethro's unemployment benefit to match his reported earnings for this week. So, Jethro would receive \$246.00 in unemployment benefits [Awarded amount = \$396.00. Earned by working = \$150.00. Benefit amount this week = \$246.00].

**Scenario 2:** Jethro does not work at all. Jethro reports not working and reports he did not earn anything during the work week. His unemployment benefit amount is \$396.00 for this week.

**Scenario 3:** Jethro works 30 hours earning \$450.00. When he files his weekly claim, Jethro reports the hours worked and his earning. Since Jethro earned more than his weekly benefit amount amount, he will not receive any unemployment benefit for this week.

**Scenario 4:** Jethro does not work at his regular job but picks up an odd job painting a house. Jethro is paid \$250.00. When Jethro files his weekly claim, he will report this earning. Jethro's unemployment benefit will be reduced by this amount, similar to Scenario 1.

Long story short, if a person is working reduced hours, they could be eligible to receive unemployment benefits, but their amount will vary depending on how much unemployment benefit has been awarded.

**Q4.** How is the additional \$600.00 awarded?

Response: The additional \$600.00 per week being paid goes to anyone who qualifies to receive unemployment benefits. This additional amount is set to stop during week ending July 31, 2020. If a person is awarded at least \$1.00 in unemployment benefits, then they will also receive the extra \$600.00. In this case, the amount would be \$601.00. However, in the instance of Scenario 2 above, the amount would be \$996.00.

Again, to receive the added \$600.00, a person has to have been otherwise eligible to receive unemployment benefits. Employees who are terminated for cause and/or quit without cause are not eligible to receive this money. There are employees who are trying to “game” the system by attempting to get fired or are quitting for no cause. If My HR Professionals is notified of these instances, we will notify the State Unemployment Office. Since the employee will not meet eligibility requirements, not only will they not be awarded unemployment benefits but they will not get the additional \$600.00.

**Q5.** What can we give an employee who wants unemployment filing assistance?

Response: Employees can file a claim through their state’s unemployment agency. [Click here](#) for information on how file unemployment in each state. A new website was created for the state of Arkansas to handle all new requests: <https://arunemployment.com/>

We strongly urge Employers not to become involved with assisting employees with filing for unemployment benefits or answer any questions about unemployment eligibility and amount of payments as these decisions are not with the Employer’s duty and/or discretion. Displaced employees should contact their state’s unemployment office for questions related to unemployment benefits. They should file their claim as soon as possible and continue to follow the filing procedures provided by their unemployment office

**Q6.** My HR Professionals has responded to an unemployment claim form, why has the unemployment office not processed the claim?

Response: Over the last several weeks, there have been thousands of claims filed; the process might be slow. If the employee does not want to file on-line, they can go to the local DWS Office.

**Q7.** If team is placed on furlough and we continue to pay their health benefits, how do they determine how much their weekly benefit is (is there a chart we can see ahead of time)?

Response: The furloughed employee's weekly benefit is based on regular taxable earned wages.

**Q8.** If salaried team's salary is reduced, can they apply for unemployment to make up the difference?

Response: The Fair Labor Standards Act dictates how to pay a salary (exempt) employee. If an exempt employee's hours/days are reduced, they are to continue to be paid as normal. On the other hand, if an exempt employee is furloughed/lay off for a complete week or longer, as long as they perform no work at all (even answer an e-mail, text, etc.), then they can apply for unemployment benefits as well. In cases where the organization has elected, as a cost cutting measure to actually reduce an employee's salary, that employee is not eligible to file for unemployment benefits because they are still working but not at a reduced schedule.

**Q9.** At what point are they eligible, is a certain # of hours (how would that work with salary?)

Response: Anyone who is completely laid off is instantly eligible to receive unemployment benefits. For employees working a reduced schedule, the point they become eligible is governed by one of the four scenarios listed above. For exempt employees, they have to be completely off work.

**Q10:** What can I do if an employee fails to report to duty after a recall?

Response: If an employee fails to report for duty and you would like for My HR Professionals to notify the unemployment office, send a list of employees who failed to return to work after the recall and we will notify the unemployment office. If an individual is receiving unemployment benefits, they may want to check with their unemployment office before refusing an offer to return to work. In some cases, a refusal to return to work when recalled may result in disqualification for benefits. For our Human Resource Administration Service clients, contact us to provide you with a best practice Layoff Recall Protocol toolkit. If you are not an HR client and would like to be, please [Contact Business Development](#)