

Summary of Unemployment Insurance Provisions in Title II Sub-title A of the Coronavirus Aid, Relief, and Economic Security Act” or the “CARES Act”



Relief for Workers Affected by Coronavirus Act

The Unemployment Insurance Provisions in this Act create new federal benefit payment programs to be paid from federal general revenue distributed through the Federal/State unemployment insurance system pursuant to agreements with states. The programs summarized below use model language from prior emergency unemployment compensation and disaster unemployment assistance programs and the American Reinvestment and Recovery Act.

The programs taken together seek to provide temporary relief to workers affected by the Coronavirus (COVID-19) by providing cash payments to more individuals and paying more benefits for longer periods of time than provided under regular unemployment compensation law.

Section 2102. Pandemic Unemployment Assistance

The section defines “covered individual” as an individual who is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under Section 2107; and provides self-certification that the individual—is otherwise able to work and available for work within the meaning of applicable State law, with a series of exceptions related to being diagnosed with COVID-19 or unable to or unavailable due to COVID-19 related reasons. The qualifying provisions also apply to self-employed individuals, except individuals who have the ability to telework with pay; or individuals receiving paid sick leave or other paid leave benefits.

The assistance offered shall be available to covered individuals for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 beginning on or after January 27, 2020 and ending on or before December 31, 2020 and as long as the individual’s unemployment, partial unemployment, or inability to work caused by COVID-19 continues, with the limitation that the total number of weeks an individual may receive in Pandemic Unemployment Assistance shall not exceed 39 weeks and such total shall include any week for which the covered individual received regular compensation or extended benefits under any Federal or State law.

Amount of Assistance

The amount of the Pandemic Unemployment Assistance shall be the weekly benefit amount authorized under the state unemployment compensation law except it may not be less than the benefit amount described in Section 625.6 of title 20 of the Code of Federal Regulations (Disaster Unemployment Assistance) and the amount of the Federal Pandemic Unemployment Compensation under Section 2104 (\$600). The amount to be paid shall be made to an individual otherwise eligible for such compensation without any waiting period.

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Agreement with States

The Secretary of Labor will provide the assistance through agreements with states and there shall be paid to each state with agreement 100% of the total amount of assistance and any additional administrative expenses necessary to facilitate processing of applications.

Funds in the Extended Unemployment Compensation Account (EUCA) shall be used to make the PUA payments and amounts from the federal general will be transferred by the Secretary of the Treasury to cover these costs.

Section 2103. Emergency Unemployment Relief for Governmental Entities and Nonprofit organizations.

The Secretary of Labor may issue clarifying guidance to allow States to interpret their State unemployment compensation laws in a manner that would provide maximum flexibility to reimbursing employers as it relates to timely payment and assessment of penalties and interest pursuant to state law.

The Secretary of Labor shall provide for the transfer of funds from the Federal Unemployment Account to the accounts of states for the period beginning March 13, 2020 and ending on December 31, 2020, one-half of the amounts of compensation attributable to service to which Section 3309(a)(1) of such code applies (Reimbursing Employers). Funds transferred shall be used exclusively to reimburse governmental entities and other organizations described in Section 3309(a)(2) for amounts paid (in lieu of contributions) into the state unemployment fund.

Section 2104. Emergency Increase in Unemployment Benefits

Federal Pandemic Unemployment Compensation (FPUC)

The compensation will be provided under the terms of agreement between the US DOL and participating state. The state agency will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law were applied with respect to any week for which the individual otherwise entitled to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation shall be equal to the amount that would otherwise be determined plus an additional amount of \$600 referred to as “Federal Pandemic Unemployment Compensation.”

The Federal Pandemic Unemployment Compensation amount shall be payable either at the same time and in the same manner as regular compensation or at state option separately but on the same weekly basis.

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Non-reduction Rule

The agreement under which such payments would be made shall not apply if the method governing the computation of regular compensation has been modified in a manner such that the number of weeks or the average weekly benefit amount, of regular compensation which will be payable during the period of the agreement (determined disregarding any Federal Pandemic Unemployment Compensation) will be less than the number of weeks, or the average weekly benefit amount, of the average weekly benefit amount that would otherwise have been payable during such period under the State law, as in effect on January 1, 2020.

Payment to States

Each state with an agreement shall be paid an amount equal to 100 percent of the total amount of Federal Pandemic Unemployment Compensation paid to individuals by the State and any additional administrative expenses incurred by the State by reason of the agreement (as determined by the Secretary). Amounts needed to make payments are appropriated from the general fund of the Treasury without fiscal year limitation.

The agreement shall apply to weeks of unemployment beginning after the date on which the agreement is entered into and ending on or before July 31, 2020.

Fraud and Overpayments

If an individual commits fraud and has received an amount of (FPUC) to which such individual was not entitled, the individual shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law and shall be subject to prosecution under section 1001 of title 18, US Code.

In the case of overpayment of FPUC, the state shall require individuals to repay such amounts but may waive repayment if the payment was without fault on the part of the individual and such payment would be contrary to equity and good conscience. the state shall recover overpayments during the 3-year period after the date such individuals received the payment.

No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

Review/Appeal

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Any determination with respect to FPUC shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

Disregard of FPUC in determining Medicaid and CHHIP

The monthly equivalent of any FPUC paid to an individual shall be disregarded when determining income for any purpose under the programs established under titles XIX and title XXI of the Social Security Act.

Section 2105. Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week.

To be eligible for an agreement under which to pay FPUC state law (including a waiver of State law) must provide that unemployment compensation is paid to individuals for their first week of regular unemployment compensation without a waiting week and the agreement shall cease to apply upon a determination by the Secretary of Labor that the State law no longer meets the requirement.

There shall be paid to each state, which has entered into an agreement, 100 percent of the total amount of regular compensation paid to individuals by the state for their first week of regular unemployment and any additional administrative expenses incurred by the state by reason of such agreement.

An agreement entered into, including the payment of the waiting week shall apply to weeks beginning after the date on which such agreement is entered into; and ending before December 31,2020.

Section 2106. Emergency State Staffing Flexibility

Amends Section 4102(b) of the Emergency Unemployment Stabilization and Access Act of 2020 (contained in division D of the Families First Coronavirus Response Act) to provide that the emergency flexibility for personnel standards on a merit basis shall only apply through December 31, 2020 and is limited to engaging temporary staff, rehiring of retirees or former employees on a non-competitive basis and other temporary actions to quickly process applications and claims.

Section 2107. Pandemic Emergency Unemployment Compensation (PEUC)

The program will be funded from federal funds and administered through the Federal State Unemployment System pursuant to agreement. The agreement requires that the state agency of the state will make payments of Pandemic Emergency Unemployment Compensation (PEUC) to individuals who have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that

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ended before July 1, 2019) who have no rights to regular compensation with respect to a week under state or federal law. Individuals must also not receive unemployment compensation with respect to such week under the law of Canada.

To be eligible to be paid individuals must be able to work, available to work, and actively seeking work.

The amount of PEUC which shall be payable to any individual for any week of total unemployment shall be equal to the amount of regular compensation payable to such individual during such individual’s benefit year under state law for a week of total unemployment; and the amount of Federal Pandemic Unemployment Compensation (FPUC) under Section 2104 - \$600.

The terms and conditions of the State law which apply to claims for regular compensation and the payment thereof shall apply to claims for PEUC, except where otherwise inconsistent with the regulations or operating instructions of the Secretary promulgated to carry out this section.

The maximum amount of PEUC payable shall not exceed 13 times the individual’s average weekly benefit amount, which includes the amount of Federal Pandemic Unemployment Compensation (FPUC) - \$600.

The payment of extended compensation (regular EB) for which an individual is otherwise eligible must be deferred until after the payment of any pandemic emergency unemployment compensation (PEUC)

Non-reduction rule

An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary of Labor that the method governing computation of regular compensation under the state law of that state has been modified in a manner such that the number of weeks (maximum benefit entitlement), or the average weekly benefit amount, of regular compensation which will be payable during the period of the agreement will be less than the number of weeks, or the average weekly benefit amount, of the average weekly benefit amount which would otherwise have been payable during such period under the state law, as in effect on January 1, 2020.

Actively Seeking Work

The term “actively seeking work “ means with respect to any individual, that such individual—is registered for employment services in such a manner and to such extent as prescribed by the State agency; has engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual’s skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the state; has maintained a record of such work search, including employers

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contacted, method of contact, and date contacted; and when requested, has provided such work search record to the state agency.

Flexibility

A state shall provide flexibility in meeting such work search requirement in case of individuals unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.

Payments to States for Payment of Pandemic Emergency Unemployment Compensation

There shall be paid to each state that has entered into an agreement an amount equal to 100 percent of the pandemic emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

Treatment of Reimbursable Compensation

No payment shall be made to any State under this section in respect to any compensation to the extent the state is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this section or chapter 85 of title 5 (UCFE and UCX) . A state shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the state is entitled to reimbursement under this section in respect of such compensation.

Financing

The Secretary of the Treasury shall transfer from the general fund of the Treasury to the extended unemployment compensation account such sums as the Secretary of Labor estimates to be necessary to make payments for Pandemic Emergency Unemployment Compensation (PEUC)

Administration

The Secretary of the Treasury shall transfer from the general fund of the Treasury to the employment security administration account such sums as the Secretary of Labor estimates to be necessary to make payments to pay the cost of administration. There are appropriated out of the employment security administration account, without fiscal year limitation, such funds as may be necessary for purposes of assisting states in meeting the costs of administration of agreements under this section.

Fraud and Overpayments

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If there is fraud by an individual in receiving Pandemic Emergency Unemployment Compensation such individual shall be ineligible for further pandemic emergency unemployment compensation and shall be subject to prosecution under Section 1001 of title 18 of the United States Code.

The state shall recover by deductions from PEUC and other federal law administered by the state agency during the 3-year period after the date such individual received the payment.

The state shall require repayment of amounts of PEUC except if the payment was without fault on the part of the individual and such payment would be contrary to equity and good conscience.

Opportunity for Hearing

No payment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

Any determination by a state agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

An agreement for PEUC shall apply to weeks of unemployment beginning after the date on which such agreement is entered into; and ending on or before December 31, 2020