CARES Act: Unemployment Insurance FAQ

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Who is eligible for unemployment insurance? The Unemployment Compensation program (UC, usually referred to as Unemployment Insurance, or UI) makes insurance payments to workers who become involuntarily unemployed for economic reasons and meet state-established eligibility rules. The program generally does not provide insurance payments to the self-employed, those who are unable to work, or those who do not have a recent earnings history.

States usually disqualify claimants who lost their jobs because of inability to work, voluntarily quit without good cause, were discharged for job-related misconduct, or refused suitable work without good cause.

To receive payment, claimants must have enough recent earnings (distributed over a specified period) to meet their state's earnings requirements; and be able, available, and actively searching for work.

The Families First Coronavirus Response Act provided states with flexibility in operating their regular UC program, allowing them to adjust their standard policies as needed to respond to the spread of COVID-19, such as work search requirements, requiring individuals have a "waiting week" between when they are laid off and when they can first receive payment for a week of unemployment, and reasons for not working.

How much does unemployment insurance usually pay? Depending on state law, UI benefits may replace up to 60%-66% of total wages and are often subject to a benefit cap of half of the state's average weekly wage, although some states have lower benefit caps.

In August 2019, the 12-month average weekly unemployment insurance benefit was $364, equivalent to $18,928 per year (although states limit payment to no longer than 26 weeks). State benefit caps vary widely, ranging from a maximum unemployment payment of $235 in Mississippi (equivalent to $12,220 per year, although an individual can only receive a maximum of $6,110 over 26 weeks) to a maximum of $823 in Massachusetts (equivalent to $42,976 per year, although an individual can only receive a maximum of $23,850 over 26 weeks).

Who is eligible for unemployment insurance under the CARES Act but not traditionally eligible for unemployment? Section 2102 of the CARES Act creates a temporary federal UI program for individuals not otherwise eligible for unemployment insurance payments (e.g., self-employed, independent contractors, gig economy workers), called Pandemic Unemployment Assistance (PUA). This program will provide payment for weeks of unemployment beginning on or after January 27 and ending on or before December 31, 2020 (for a maximum of 39 weeks). The Department of Labor will provide final guidance on those eligible for these benefits, but this program will provide unemployment insurance payments to others not traditionally eligible for UI such as those who had job offers and who would have started work soon, those with a limited work history that would traditionally make them ineligible for unemployment insurance payments, and others.

How much can people receive from Pandemic Unemployment Assistance, the new temporary program for those not traditionally eligible for unemployment insurance? The benefit amount will be equal to the weekly benefit amount as calculated under state law based on recent earnings, the same way regular UI payments are calculated. As this new program is modeled after the Disaster Unemployment

Assistance program[1], the minimum benefit will be equal to the minimum benefit under the disaster program, which is set at half of the state's average weekly UI benefit. Individuals receiving Pandemic Unemployment Assistance would also be eligible to receive an extra $600 per week as discussed below.

What information will the self-employed and independent contractors need to provide to receive unemployment insurance under this new program? States will follow their traditional processes to determine eligibility for unemployment insurance, using wage records they already have for this purpose when possible. For those for whom the state might not have wage data, the person applying will need to provide tax records to document prior earnings (following the process states use for the Disaster Unemployment Assistance program, which the new PUA program is modeled after).

What happens to those who are already unemployed and whose state unemployment insurance payments have ended or are ending soon? Section 2107 of the CARES act creates the “Pandemic Emergency Unemployment Compensation” program, which provides up to 13 additional weeks of federally financed UI payments for individuals who exhaust state and federal unemployment insurance payments and are able, available, and actively seeking work, subject to COVID-19-related flexibilities. This provision expires December 31, 2020.

The CARES Act provides for an additional $600 per week payment to the unemployed. Who gets this extra payment? An additional $600 per week payment will be made to all those eligible for and receiving unemployment insurance payments for weeks of unemployment beginning when the state first elects to offer this payment and ending on or before July 31, 2020. This includes all those receiving unemployment insurance payments: regular Unemployment Compensation (regular UI), Pandemic Unemployment Assistance (the new program for those not traditionally covered by UI such as the self-employed, independent contractors, or gig workers), or Pandemic Emergency Unemployment Compensation (the additional 13 weeks of federally-funded unemployment insurance payments to help those who remain unemployed after weeks of state unemployment insurance payments are no longer available).

Does an employer have to lay a person off for that person to get unemployment insurance payments? No. An employer can furlough workers, who will then be eligible for unemployment insurance payments. It is also possible for an employer to continue to pay an employee’s health benefits during a furlough, which would still allow the employee to receive unemployment insurance payments until they are called back to work. Depending on the way the state calculates unemployment insurance payments, it may be possible for those with reduced hours or reduced pay to receive unemployment insurance payments as well (see below).

What about people whose hours have been reduced? Can they get unemployment insurance payments? Yes, individuals can receive benefits for what’s called “partial unemployment.” In a few states, an individual is considered totally unemployed in a week even though certain small amounts of wages are earned. In most states, an individual is considered to be partially unemployed if they are working less than full-time and their earnings are less than the weekly benefit amount they'd be eligible for if they were unemployed. Some states may disregard a portion of a person's earnings in this calculation as well, meaning some of their earnings would not count when calculating their weekly benefit amount they are eligible for (see Table 3-8 here for specific state information).

Do unemployment insurance payments count as income? Yes, unemployment benefits are counted as unearned income for federal tax purposes, and the additional $600 in weekly unemployment insurance payments provided by the CARES Act count toward eligibility for means-tested benefits (other than Medicaid and the Children's Health Insurance Program).

How does work sharing or "short-time compensation" work? How much can employers pay to an employee to prevent layoffs? In states that have short-time compensation programs, workers whose hours are reduced under a formal work sharing plan may be compensated with "short-time compensation," which is a regular unemployment benefit that has been pro-rated for the partial work reduction. Under a work sharing arrangement, a firm faced with the need to downsize temporarily chooses to reduce work hours across the board for all workers instead of laying off a smaller number of workers.

Under the CARES Act, states with short-time compensation laws can receive 100 percent of the costs incurred for paying these benefits through December 31, 2020—limited to an amount per person that is no more than what would have been paid to the person had they been laid off and received unemployment insurance instead (a maximum of 26 weeks' worth of what the individual would have received in unemployment insurance payments).

States without short-time compensation laws can receive up to 50 percent of the costs incurred for paying these benefits through December 31, 2020—limited to the same maximum amount per person as noted above (a maximum of 26 weeks' worth of what the individual would have received in unemployment insurance payments).

Additional Information

CRS Reports (public links)

- The Fundamentals of Unemployment Compensation
- H.R. 6201: Paid Leave and Unemployment Insurance Responses to COVID-19
- Unemployment Insurance Provisions in the CARES Act (H.R. 748, as Amended)
- Unemployment Insurance: Programs and Benefits
- Compensated Work Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs

Department of Labor Guidance

- U.S. DOL, “Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19)” (UIPL 10-20; March 12, 2020).
- U.S. DOL, “U.S. DOL, “Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19)” (UIPL 10-20; March 12, 2020).

Other Information

- U.S. DOL, “Comparison of State Unemployment Laws 2019”.