



APRIL 2020

## FAQs: Enhanced Unemployment Benefits Under the CARES Act

President Donald Trump, on March 28, signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act stimulus bill, which has several implications for employers and employees, including expanded unemployment benefits. Because the COVID-19 situation is dynamic, employers should consult with counsel for the latest developments and updated guidance on this topic.

### Enhanced Unemployment Benefits Under CARES Act

The CARES Act provides unemployment benefits for individuals affected by the COVID-19 public health crisis, including an emergency increase in unemployment compensation benefits to those who already qualify for unemployment benefits under state law, and through the Pandemic Unemployment Assistance Program to those who would not otherwise qualify, such as self-employed individuals and independent contractors.

### Additional Relief for Those Who Would Typically Qualify for Unemployment Benefits

#### Increase in Unemployment Benefit via Federal Pandemic Unemployment Compensation

##### ■ Who is eligible for the increase in unemployment benefits under the CARES Act?

Under the CARES Act, eligible individuals are

those who are unemployed or underemployed due to COVID-19 and are otherwise eligible for unemployment benefits under state law.

##### ■ What is the amount of unemployment benefits?

Individuals will receive their regular state unemployment benefits, along with an additional \$600 per week, from the date the state enters into an agreement with the Secretary of Labor through July 31. The payment of benefits does not appear to be retroactive. The additional \$600 per week in benefits is referred to in the CARES Act as Federal Pandemic Unemployment Compensation.

##### ■ Is there a one-week eligibility waiting period?

Typically, states do not provide unemployment benefits for the first week of unemployment. The CARES Act does not appear to require states to waive the standard one-week unemployment benefits eligibility period for this emergency increase; however, if a state enters into an agreement with the Secretary of Labor to waive this period, the amount of the first week of benefits and any additional administrative expenses will be funded by the federal government.

*This publication may constitute "Attorney Advertising" under the New York Rules of Professional Conduct and under the law of other jurisdictions.*

■ **Does Federal Pandemic Unemployment Compensation count as income for purposes of Medicaid and the State Children’s Health Insurance Program (CHIP)?**

No, Federal Pandemic Unemployment Compensation will not count as income for purposes of determining eligibility for Medicaid and CHIP.

**Extended Benefits via Federal Pandemic Unemployment Compensation**

■ **What if an individual’s state unemployment benefits have been exhausted?**

If individuals remain unemployed after they have exhausted their state and federal unemployment benefits, and if they meet certain requirements and are able to work, available to work and actively seeking work, they can receive up to 13 weeks of additional unemployment benefits in the amount that they would otherwise be entitled to, plus Federal Pandemic Unemployment Compensation of \$600 per week.

This 13-week increase of benefits enhances to 39 weeks the 26-week maximum set by most states. States must also provide flexibility in the requirement of being able to work, available to work and actively seeking work in the case of individuals unable to search for work because of COVID-19, including because of illness, quarantine or movement restrictions.

**Relief for Individuals Typically Not Eligible for Unemployment Benefits**

**Pandemic Unemployment Assistance Program**

■ **Who is eligible for the Pandemic Unemployment Assistance Program under the CARES act?**

The CARES Act also includes the Pandemic Unemployment Assistance Program, which provides unemployment benefits to those individuals who would not otherwise qualify for

unemployment benefits under state or federal law: self-employed individuals, individuals seeking part-time employment, those who lack sufficient work history and those who have exhausted their unemployment benefits.

These individuals must certify that they are unemployed, partially unemployed or unable to work due to the following reasons:

- They have been diagnosed with COVID-19.
- They are experiencing COVID-19 symptoms and are seeking a medical diagnosis.
- A member of their household has been diagnosed with COVID-19.
- They are caring for a family member/household member diagnosed with COVID-19.
- They are the primary caregiver for a child/other person in their household who is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency, and school or facility care is required for the primary caregiver to work.
- They are unable to reach the place of employment due to a quarantine imposed as a direct result of the COVID-19 public health emergency.
- They were scheduled to begin employment and do not have a job or are unable to reach the job as a direct result of the COVID-19 public health emergency.
- They have become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19.
- They have had to quit their job as a direct result of COVID-19.

- Their place of employment is closed as a direct result of the COVID-19 public health emergency.
- They meet other criteria that may be set forth by the Secretary of Labor.

Under the Pandemic Unemployment Assistance Program, individuals are able to receive unemployment benefits even though they are not actively seeking work.

#### ■ **Who is not eligible for the Pandemic Unemployment Assistance Program?**

The Pandemic Unemployment Assistance Program does not apply to individuals who are able to telework with pay or who are receiving paid sick leave or other paid leave benefits.

#### ■ **Is there a one-week waiting eligibility period under the Pandemic Unemployment Assistance Program?**

There is no required waiting period before unemployment benefits eligibility under the Pandemic Unemployment Assistance Program. Individuals will be paid for the first week of unemployment.

#### ■ **What is the unemployment benefit amount Under the Pandemic Unemployment Assistance Program?**

Individuals can receive weekly unemployment benefits in the amount of the applicable state unemployment benefit, but not less than the minimum weekly benefit amount described in the federal Disaster Unemployment Assistance program (Section 625.6 of title 20, Code of Fed. Regulations), which is equal to 50% of the

individual's state's average weekly unemployment benefit. In addition, individuals will receive Federal Pandemic Unemployment Compensation of \$600 per week.

#### ■ **What is the applicable time period for unemployment benefits under the Pandemic Unemployment Assistance Program?**

Pandemic Unemployment Assistance Program benefits apply to weeks of unemployment, partial unemployment or inability to work caused by COVID-19 beginning on Jan. 27. Individuals are generally limited to 39 weeks of benefits, and benefits will be retroactive. The program is presently set to expire on Dec. 31.

For more information on the business impacts of COVID-19, we encourage you to visit our [COVID-19 Resource Center](#), which we will continue to update as the situation evolves. If you have questions about COVID-19's impact on your business, please reach out to your Loeb relationship partner, or email us directly at [COVID19@loeb.com](mailto:COVID19@loeb.com).

#### **Related Professionals**

For more information, please contact:

**Lauren Williams**

[lwilliams@loeb.com](mailto:lwilliams@loeb.com)

**Mark Goldberg**

[mgoldberg@loeb.com](mailto:mgoldberg@loeb.com)

**Erin Smith**

[esmith@loeb.com](mailto:esmith@loeb.com)

---

**This alert is a publication of Loeb & Loeb and is intended to provide information on recent legal developments. This alert does not create or continue an attorney client relationship nor should it be construed as legal advice or an opinion on specific situations.**

© 2020 Loeb & Loeb LLP. All rights reserved.

6287 REV1 04-01-2020