

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 24-20, Change 1

TO: STATE WORKFORCE AGENCIES

FROM: JOHN PALLASCH /s/ Assistant Secretary

SUBJECT: Continued Assistance for Unemployed Workers Act (Continued Assistance Act) of 2020 – Provisions Affecting the Federal-State Extended Benefits Program

1. **Purpose.** To advise states of the enactment of the Continued Assistance Act, on December 27, 2020, amending certain provisions of the Emergency Unemployment Insurance Stabilization and Access Act (EUISAA), set out in division D of the Families First Coronavirus Response Act (Pub. L. 116-127), the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), and creating an optional, time-limited, and temporary waiver related to the 13-week “off” period in the permanent extended benefit (EB) law, the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), 26 U.S.C. § 3304, note.
2. **Action Requested.** The Department of Labor’s (Department) Employment and Training Administration (ETA) requests State Workforce Administrators to provide the information contained in this Unemployment Insurance Program Letter (UIPL) to appropriate program and other staff in state workforce systems as they implement the unemployment insurance (UI)-related provisions that respond to the economic effects of the Coronavirus Disease 2019 (COVID-19) pandemic.
3. **Summary and Background.**
 - a. Summary – On December 27, 2020, the President signed into law the Continued Assistance Act, which modifies and extends certain EB-related provisions in both EUISAA and the CARES Act. The Continued Assistance Act also establishes an optional, time-limited, and temporary waiver related to the 13-week “off” period in EUCA.
 - b. Background – On March 18, 2020, the President signed the Families First Coronavirus Response Act (Pub. L. 116-127), which includes EUISAA, set out in Division D. Section 4105 of EUISAA provides full federal funding, under certain circumstances, of: 1) sharable regular compensation and sharable extended compensation; and 2) temporary federal matching for the first week of EB for states with no waiting week. Under

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EUISSA, these provisions were set to expire on December 31, 2020. The Continued Assistance Act extends the availability of these reimbursements as described above to March 14, 2021.

On March 27, 2020, the President signed the CARES Act (Pub. L. 113-136), which includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2107 of the CARES Act created the Pandemic Emergency Unemployment Compensation (PEUC) program, which provides additional weeks of benefits to individuals who exhaust regular unemployment compensation (UC). The Continued Assistance Act amends the relationship between PEUC and EB by adding a special rule related to an individual's eligibility for EB.

Additionally, the Continued Assistance Act provides optional, time-limited, and temporary waiver authority regarding the 13-week "off" period in Section 203(b)(1)(B) of EUCA, if permitted by state law. This UIPL provides model language for states related to this provision.

Importance of Program Integrity. Addressing improper payments and fraud is a top priority for the Department and the entire UI system. It is critical that states implement UI programs and provisions to ensure that payments are being made to eligible individuals and that states have aggressive strategies and tools in place to prevent, detect, and recover fraudulent payments, with a particular emphasis on imposter fraud by claimants using false identities.

The programs and provisions within the Continued Assistance Act, EUISAA, and the CARES Act operate in tandem with the fundamental eligibility requirements of the Federal-State UI program. These requirements include that an individual file certifications with respect to each week of unemployment that is paid and that an individual be able to work and available for work except as specifically provided for in statute. In addition, the Continued Assistance Act includes new program integrity requirements for the Pandemic Unemployment Assistance (PUA) and PEUC programs with which states must comply.

Some states remain in the midst of managing extraordinary workloads due to the effects of the spread of COVID-19. During this time, there is a heightened need for states to maintain a steadfast focus on UI functions and activities that ensure program integrity and the prevention and detection of improper payments and fraud across all programs operated within the UI system.

UIPL No. 23-20, published on May 11, 2020, discusses program integrity for the UI system. UIPL No. 28-20, published on August 31, 2020, provides states with funding to assist with efforts to prevent and detect fraud and identity theft and recover fraud overpayments in the PUA and PEUC programs.

States play a fundamental role in ensuring the integrity of the UI system. While states have been provided some flexibilities as a result of the COVID-19 pandemic, those

flexibilities are generally limited to emergency temporary actions as needed to respond to the spread of COVID-19. States must ensure that individuals only receive benefits in accordance with federal and state law.

ETA strongly encourages states to utilize the tools, resources, and services of the UI Integrity Center, funded by the Department and operated in partnership with the National Association of State Workforce Agencies. One of the key assets to support addressing fraud is the Integrity Data Hub (IDH), which includes a variety of data sets to prevent and detect fraud based on identity theft at the time of application, including an identity verification solution. ETA also encourages states to consult with the UI Integrity Center on data analytics and to prioritize IDH hits, as well as on other tools and solutions available through the private sector that complement the IDH. In UIPL No. 28-20, the Department explained its expectation that states connect to the IDH no later than March 31, 2021 and encouraged states to use their share of the funding provided through that UIPL to support IDH connection as soon as possible. There is also a range of other tools on the market that states should consider when combating fraud and ensuring program integrity.

4. Federal Funding of EB and Program Eligibility Requirements.

- a. **Full Federal Funding of EB.** Section 222 of the Continued Assistance Act amended two provisions in Section 4105 of EUISAA, extending certain federal financing provisions of EB as set out below. As a result the guidance below supersedes the guidance on these provisions in UIPL No, 24-20.
 - i. *Extension of Full Federal Funding Period for Sharable Costs.* Full federal funding of sharable regular compensation and sharable extended compensation for eligible states is extended through weeks of unemployment beginning before March 14, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which full federal funding is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which full federal funding is available is the week ending March 14, 2021.
 - ii. *Extension of Full Federal Funding Period for the First Week of EB in States without a Waiting Week.* Temporary federal matching for the first week of EB for states with no waiting week is extended to weeks of unemployment beginning before March 14, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which this funding is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which this funding is available is the week ending March 14, 2021.

These reimbursements are discussed in more detail in UIPL No. 13-20, published on March 22, 2020, and UIPL No. 24-20, published on May 14, 2020. The Continued

Assistance Act simply extends the availability of these reimbursements as described above.

- b. **Eligibility for EB of Certain PEUC Exhaustees.** Section 206(c)(2)(B) of the Continued Assistance Act amended Section 2107(a) of the CARES Act regarding the application of Section 203(c) of EUCA to PEUC exhaustees. First, section 206(c)(2)(A) of the Continued Assistance Act provides that any individual who is receiving EB for the week of unemployment that includes December 27, 2020 (the date of enactment of the Continued Assistance Act) shall not be eligible for PEUC until the individual has exhausted all rights to EB.

Second, at a state’s option, for weeks of unemployment beginning after December 27, 2020 and before April 12, 2021, an individual’s eligibility for EB shall be considered to include any week that begins after the individual exhausts all rights to PEUC and that falls during an EB period that began after the date the individual exhausted all rights to PEUC. This applies even if the individual’s benefit year has expired, provided the state is in an EB period as of the date the individual exhausts PEUC.

- c. **Optional, Time-Limited, and Temporary Waiver Authority Regarding the 13-week “Off” Period.** Section 266 of the Continued Assistance Act authorizes states to amend their states’ UC laws to disregard the 13-week mandatory “off” period described in Section 203(b)(1)(B), EUCA, during certain weeks of unemployment.

Federal law requires a state’s UC law to include a provision preventing an EB period from beginning prior to the fourteenth week after the close of the prior EB period. For example, if a state had an “off” indicator for the week ending November 21, 2020, the state’s EB period would end on December 12, 2020 (three weeks later). Section 203(b)(1)(B), EUCA, requires the state to remain in an “off” period through March 13, 2021, meaning the state could only begin a new EB period on March 14, 2021 (the beginning of the fourteenth week after the close of the prior EB period), provided the state has an unemployment rate that is still at or above the EB threshold. The temporary waiver authority created by the Continued Assistance Act is available for the purpose of determining if a state is in an EB period during the period beginning on November 1, 2020 and ending December 31, 2021. In this example, a state whose law allows the temporary waiver of the 13-week mandatory “off” period authorized by the Continued Assistance Act could begin a new EB period before March 14, 2021, provided the state has an unemployment rate that is at or above the EB threshold.

Some states have conditioned the applicability of their total unemployment rate (TUR) trigger based on full federal financing of extended benefits. For these states, their UC laws are written to cause an “off” indicator for the TUR trigger for the week ending December 5, 2020 in states where the week of unemployment ends on a Saturday (December 6, 2020 in states where the week of unemployment ends on a Sunday). Other states have triggered “off” of EB due to fluctuations in the state’s unemployment rate, which, in some instances, varies because of changes in the economic impact of COVID-19 in their state.

A state that chooses to utilize this optional, time-limited, and temporary waiver authority must amend its state UC laws. In turn, state law determines whether an amendment requires state legislative enactment or if it may be accomplished via a state's Executive Orders or regulations.

Sample Draft State Legislative Language for the Optional Temporary Waiver Authority

The following language is offered as a sample for state legislation for states pursuing the optional, time-limited, and temporary waiver authority regarding the 13-week "off" period:

Sec. XXX With respect to determining whether the state is in an extended benefit period beginning on November 1, 2020, through December 31, 2021, the state shall disregard the requirement in [insert state UC law section citation] that no extended benefit period may begin before the fourteenth week following the end of a prior extended benefit period which was in effect.

In addition to amending the state UC law to temporarily waive the 13-week "off" period, certain states may also wish to include a retroactive application of the TUR trigger. This is of particular interest to a state that: 1) has conditioned the applicability of its TUR trigger based on full federal financing of extended benefits; 2) as a result of this condition, has experienced an "off" indicator week; and 3) has an unemployment rate that is at or above the EB threshold. To ensure the state's EB period remains uninterrupted, such a state must also (in addition to waiving the 13-week mandatory "off" period) amend its state UC law related to the TUR trigger to result in an "on" indicator during the week the state otherwise experienced an "off" indicator. Without this, a state that only takes action to elect to use the optional, time-limited, and temporary waiver of the 13-week "off" period would be required to start a new EB period.

States are reminded that anytime an EB period begins or ends the state must provide appropriate notice to impacted individuals, as provided in 20 C.F.R. 615.13.

5. **Inquiries.** Please direct inquiries to covid-19@dol.gov with a copy to the appropriate ETA Regional Office.

6. **References.**

- Continued Assistance for Unemployed Workers (Continued Assistance Act) of 2020, enacted on December 27, 2020;
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), including Title II Subtitle A Relief for Workers Affected by Coronavirus Act;
- Families First Coronavirus Response Act (Pub. L. 116-127), including Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA);

- Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) (26 U.S.C. § 3304 note);
- 20 C.F.R. Part 615;
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) – Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831
- UIPL 28-20, *Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, issued August 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8044;
- UIPL No. 24-20, *Temporary Changes to the Federal-State Extended Benefits (EB) Program in Response to the Economic Impacts of the Coronavirus Disease 2019 (COVID-19) Pandemic Emergency*, issued May 14, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7132; and
- UIPL No. 23-20, *Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, issued May 11, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4621.

7. Attachments.

- **Attachment I:** Statutory Language of Sections 222 and 266 of the Continued Assistance for Unemployed Workers of 2020