



## Federally Funded Expansion of Unemployment Benefits Pursuant to the Coronavirus Aid, Relief and Economic Security Act

On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”), providing for an estimated \$2 trillion stimulus package in response to the COVID-19 pandemic. Amongst the benefits provided by the CARES Act is Pandemic Unemployment Assistance (“PUA”), Pandemic Unemployment Compensation (“PUC”) and Pandemic Emergency Unemployment Compensation (“PEUC”). All three provisions provide additional federal funds to assist individuals who are unemployed due to COVID-19. These funds will be distributed by the State of Connecticut and the state will be reimbursed by the federal government for all benefits paid.

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

Section 2102 of the CARES Act provides up to 39 weeks of benefits to individuals whom otherwise would not qualify for regular unemployment compensation (such as individuals who are self-employed, independent contractors, seeking part-time employment, or do not have a long enough work history to qualify), extended benefits under state or federal law, or Federal Pandemic Emergency Unemployment Compensation (see below). **Coverage also includes individuals who have exhausted all rights to regular or extended unemployment compensation benefits under state or federal law.** The duration is limited to 39 weeks, minus any weeks the individual received regular unemployment.

Individuals must demonstrate that they are otherwise able to work and available to work within the meaning of applicable state law, except that they are (1) unemployed, (2) partially unemployed, or (3) unable or unavailable to work because of one of the following COVID-19 reasons:

- the individual has been diagnosed with COVID–19 or is experiencing symptoms of COVID–19 and seeking a medical diagnosis;
- a member of the individual’s household has been diagnosed with COVID–19;
- the individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID–19;
- a child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID–19 public health emergency and such school or facility care is required for the individual to work;
- the individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID–19 public health emergency;
- the individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;
- the individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID–19 public health emergency;
- the individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID–19;
- the individual has to quit his or her job as a direct result of COVID–19;
- the individual’s place of employment is closed as a direct result of the COVID–19 public health emergency; or
- the individual meets other criteria established by the Secretary of Labor.

Note: Individuals who have the ability to telework are expressly excluded from coverage. **An individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification above, cannot receive PUA.**

The PUA will equal the minimum weekly benefit amount described in the Stafford Act Disaster Unemployment Assistance (DUA) program, which is the model for the PUA program, **plus** the \$600 per week pursuant to Pandemic Unemployment Compensation (see below).

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

This program grants individuals who are eligible for and awarded unemployment insurance benefits by their state an additional \$600 per week for the next four months (through July 31, 2020). The supplement is paid at a flat rate of \$600 weekly and is not prorated based on the employee’s pay rate.

Furthermore, the \$600 supplement is paid on top of whatever compensation individuals are entitled to by the state. Since Connecticut offers partial unemployment benefits, the \$600 supplement will be paid to individuals who receive partial or full unemployment benefits. The state has the option to either include the FPUC in state unemployment checks, or issue individuals separate checks. Further details are forthcoming.

Some individuals, primarily those whose hours were reduced and are collecting partial unemployment, will end up collecting more income than they otherwise would be if they had retained their job. This was as a major concern when the bill was being debated, but the Senate rejected a proposed amendment that addressed this issue. Connecticut employers are concerned that the lump sum supplement will incentivize employees to remain out of work.

### **Pandemic Emergency Unemployment Compensation (“PEUC”)**

This provides up to 13 weeks of unemployment benefits, covering individuals who:

- have exhausted all rights to regular unemployment compensation under state or federal law;
- have no rights to regular unemployment compensation under any other state or federal law;
- are not receiving compensation under the unemployment laws of Canada; and
- are able to work, available for work, and actively seeking work (states shall offer flexibility in meeting the “actively seeking work” requirement)

### **Coordination of Benefits**

The federal government has issued guidance on the order of payments.

- For an individual who is eligible for state unemployment compensation:
  1. The individual must first apply for and receive regular unemployment
  2. Once state unemployment is exhausted, the individual may then be eligible to receive PEUC
  3. If individual exhausts PEUC and the state has “triggered on” to extended benefits, the individual may receive extended benefits. The duration of these benefits is up to 13 or 20 weeks, dependent on the state’s unemployment rate and if state law includes a trigger for periods of high unemployment.
  4. After all of the above are exhausted, the individual can apply for PUA (limited to 39 weeks, minus any weeks that the individual received regular unemployment compensation; PEUC weeks will not be deducted from PUA entitlement)

### **Important Changes for Non-profit and Government Employers**

Non-profit organizations and governmental entities normally reimburse the state for 100% of their unemployment claims as opposed to paying unemployment taxes on an ongoing basis. Under the CARES Act, the federal government will provide states with funds to reimburse non-profits and governmental entities for 50% of their unemployment claims for the period of March 13, 2020 through December 31, 2020. Employees from governmental agencies and non-profit organizations will also be eligible for the \$600 FPUC supplement.

The Connecticut Department of Labor has not yet provided guidance as to the method of reimbursing the nonprofits and governmental entities—whether the State will bill the entities for half the money paid out for former/furloughed employees or whether the State will bill the entities the full cost and then reimburse the 50% after the State receives money from the federal government.

For further information on the implications of COVID-19 on employment, or other employment related questions, please contact Christopher L. Brigham, Chair of the Employment Law Practice Group at Updike, Kelly & Spellacy, P.C. at (203) 786-8310 or [cbrigham@uks.com](mailto:cbrigham@uks.com), or Valerie M. Ferdon, Associate Attorney in the Employment Law Practice Group at (860) 548-2607 or [vferdon@uks.com](mailto:vferdon@uks.com).

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