THE BROADWAY LEAGUE®
729 Seventh Avenue, 5th Floor New York, NY 10019
212-764-1122 www.BroadwayLeague.com

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Pandemic Unemployment Emergency Compensation ("PUEC"). The PUEC provision provides for an additional 13 weeks of unemployment benefits for individuals who have exhausted benefits they are otherwise entitled to under state law. Therefore, eligible individuals now may receive unemployment benefits up to a maximum of 39 weeks, whereas previously many states capped regular benefits at 26 weeks. The extended benefits are available through December 31, 2020. Any of the additional 13 weeks of benefits received prior to July 31, 2020 should include the extra $600 FPUC payment.

If an individual is already receiving unemployment benefits, qualifies for unemployment benefits under state law, or is eligible for Pandemic Unemployment Assistance (discussed below), then that individual will be eligible to receive the additional 13 weeks. These additional 13 weeks will be paid at the same weekly rate the individual is otherwise eligible to receive under applicable law. If any of these 13 weeks end on or before July 31, 2020, they will also include the $600 FPUC payment. If an individual exhausted previously available benefits at some point after July 1, 2019, then they will need to reapply to receive the additional 13 weeks.

How does the CARES Act create new unemployment insurance benefits?

The Pandemic Unemployment Assistance ("PUA") provision of the CARES Act expands coverage to certain workers who traditionally are not eligible for unemployment benefits under state law, such as individuals who are self-employed, independent contractors, have limited work history, or who have exhausted all rights to regular or extended unemployment benefits, among others. This is particularly important for those who work in the gig economy, who work largely as independent contractors and freelancers.

To be eligible for PUA benefits, individuals must be unemployed, partially unemployed, or unable to work for certain reasons relating to COVID-19, such as where:

- An individual has been diagnosed with COVID-19 or is experiencing COVID-19 symptoms and seeking diagnosis;
- A member of the individual's household has been diagnosed with COVID-19;
- An individual is caring for a family or household member diagnosed with COVID-19;
- An individual is the primary caregiver of a child or household member who is unable to attend school or another facility that is closed due to COVID-19;
- An individual is unable to reach their place of employment due to an imposed quarantine or was advised by a medical provider to self-quarantine due to COVID-19;
- An individual was scheduled to commence new employment and does not have a job or cannot reach the job as a direct result of COVID-19;
- An individual became the breadwinner or major support for a household because the head of the household died from COVID-19;
- An individual has to quit a job as a direct result of COVID-19; or

- An individual’s place of employment closed as a direct result of COVID-19.

Notably, individuals who (i) can telework for pay, or (ii) are receiving paid sick leave or other paid leave benefits, are not eligible to receive PUA benefits.

The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) was signed into law on March 27, 2020. The $2.2 trillion package included various provisions increasing and expanding unemployment insurance benefits available to workers, including individuals who are unemployed, partially unemployed, or unable to work due to COVID-19.

How does the CARES Act increase existing unemployment insurance benefits?
The CARES Act expands existing unemployment benefits in two material ways: (1) providing for an extra $600 weekly payment, in addition to the weekly benefit amount an eligible employee otherwise receives under state law; and (2) increases the maximum number of weeks an individual may receive benefits. These new benefits are funded at the federal level, but will be administered by the states.

Federal Pandemic Unemployment Compensation (“FPUC”). Under the FPUC provision of the Act, individuals who are eligible for unemployment benefits will receive an extra $600 weekly benefit for all weeks of unemployment between April 5, 2020 and July 31, 2020, in addition to the amount the individual otherwise would be entitled to receive under state law. The $600 supplemental benefit should be paid for any week in which an individual receives unemployment benefits under state programs. This additional benefit is taxable, as is the case with all unemployment compensation, but will be disregarded for purposes of determining income for Medicaid or Children’s Health Insurance Program (“CHIP”) eligibility.

Pandemic Unemployment Emergency Compensation (“PUEC”). The PUEC provision provides for an additional 13 weeks of unemployment benefits for individuals who have exhausted benefits they are otherwise entitled to under state law. Therefore, eligible individuals now may receive unemployment benefits up to a maximum of 39 weeks, whereas previously many states capped regular benefits at 26 weeks. The extended benefits are available through December 31, 2020. Any of the additional 13 weeks of benefits received prior to July 31, 2020 should include the extra $600 FPUC payment.
If an individual is already receiving unemployment benefits, qualifies for unemployment benefits under state law, or is eligible for Pandemic Unemployment Assistance (discussed below), then that individual will be eligible to receive the additional 13 weeks. These additional 13 weeks will be paid at the same weekly rate the individual is otherwise eligible to receive under applicable law. If any of these 13 weeks end on or before July 31, 2020, they will also include the $600 FPUC payment. If an individual exhausted previously available benefits at some point after July 1, 2019, then they will need to reapply to receive the additional 13 weeks.

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To be eligible for PUA benefits, individuals must be unemployed, partially unemployed, or unable to work for certain reasons relating to COVID-19, such as where:

- An individual has been diagnosed with COVID-19 or is experiencing COVID-19 symptoms and seeking diagnosis;
- A member of the individual's household has been diagnosed with COVID-19;
- An individual is caring for a family or household member diagnosed with COVID-19;
- An individual is the primary caregiver of a child or household member who is unable to attend school or another facility that is closed due to COVID-19;
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- An individual's place of employment closed as a direct result of COVID-19.

Notably, individuals who (i) can telework for pay, or (ii) are receiving paid sick leave or other paid leave benefits, are not eligible to receive PUA benefits.

Under the PUA, an eligible individual may collect benefits for a maximum of 39 weeks between January 27, 2020 and December 31, 2020. Weekly PUA benefits will equal the weekly benefit that the individual otherwise would receive under the applicable state law, plus the additional $600 weekly payment under FPUC (through July 31, 2020).

For states that typically have a waiting period before an individual can collect unemployment benefits, does the CARES Act waive that waiting period?

The CARES Act does not waive the state-law waiting periods for regular unemployment benefits, but it heavily incentivizes states that ordinarily have a one-week waiting period to waive that requirement. Under the Act, the federal government will reimburse 100% of the benefits paid during the first week of an individual's unemployment if a state waives its waiting period.

As with most unemployment insurance questions, it is important for employers and claimants to review the rules in the applicable state(s), as well as any recent orders or guidance, related to waiting periods. Even before the passage of the CARES Act, however, many states that typically do have a waiting period waived the requirement in light of circumstances relating to COVID-19, including New York and California, among others.

The CARES Act also provides that the new PUA benefits will not be subject to a waiting period.

What about short-time compensation ("STC") programs?

STC, or "work share" or "shared work," programs provide employers with an alternative to layoffs. STC programs allow employers to apply for state approval to administer a plan that reduces the wages and hours for affected employees, while allowing those employees to receive partial unemployment benefits from the state. Under the CARES Act, the federal government will cover 100% of the unemployment compensation paid under existing state STC programs. The CARES Act also creates incentives for states that have not yet created programs to do so.

Does the CARES Act provide any relief for employers?

Under the CARES Act, the federal government will reimburse 50% of unemployment compensation paid by certain nonprofits, governmental agencies, and Indian tribes between March 13, 2020 and December 31, 2020 that have opted out of state unemployment insurance.

How is all of this going to be administered?

The new and expanded benefits provided for as a matter of federal law will be administered through each state's unemployment compensation program.

On April 2, 2020, the U.S. Department of Labor ("DOL") released the Unemployment Insurance Program Letter 14-20 ("UIPL 14-20"), which the DOL described as "the first of several upcoming UIPLs to states on the unemployment insurance provisions of the CARES Act." UIPL 14-20 largely summarizes the CARES Act provisions, but does provide clarity on a few key areas:

- **PUA implementation.** PUA benefits will be administered similar to the existing Disaster Unemployment Assistance program, but states should await further details regarding definitions for terms and eligibility criteria for this program and other new programs. That information will be provided in future guidance.

- **PUA and the partially unemployed.** Availability for partial unemployment benefits varies from state to state. However, PUA benefits are available for those who are partially unemployed due to COVID-19 related circumstances. As such, even if a claimant is not eligible for regular benefits in a state that does not provide partial unemployment benefits, they may be covered under PUA.

- **Emergency relief for governmental agencies, nonprofits, and Indian tribes.** States will receive funds to reimburse 50% of unemployment payments by state and local governmental entities, certain nonprofits, and Indian tribes made between March 13, 2020 and December 31, 2020. Reimbursement is available for all unemployment claims made during this time period, not just COVID-19 related claims.

- **FPUC and STC programs.** Individuals receiving benefits under an approved STC program also are eligible for the additional $600 weekly FPUC payment through July 31, 2020. As an example, an individual whose hours and wages are reduced by 40% as part of an approved STC program will receive: 60% regular wages, 40% of their weekly unemployment benefit, and the $600 FPUC payment for weeks ending on or before July 31, 2020.

States currently are awaiting further federal guidance as to how to administer the new benefits. As a result, there may be a delay in benefits for covered individuals but, regardless of the delay, covered individuals should receive payment for all eligible periods of unemployment. States also have taken different approaches with respect to the benefits claim process. For example, some states are asking claimants who are eligible for PUA benefits to wait to submit claims until the state is able to process PUA claims, whereas other states are asking those eligible for PUA benefits to apply for benefits immediately. Employers and claimants should monitor the websites for any applicable state unemployment insurance programs for up-to-date guidance. Additionally, we will continue to monitor these developments and inform our readers of any new guidance in this area.

Please feel free to reach out to Raul Argudin, Human Resources Manager of Regulatory Compliance at 212 703 0221 or RArgudin@broadway.org, should you have any questions or require assistance.

The League Labor Relations Department