



APR 17 2020

The Honorable Ron Wyden
United States Senate
Washington D.C. 20510

Dear Senator Wyden:

The Department of Labor (Department) received your letter regarding the Pandemic Unemployment Assistance (PUA) program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Department welcomes another opportunity to provide insight into previous, current, and ongoing work on this front.

As noted in our April 9 response to your April 7 letter, the Department's work to support state workforce and unemployment insurance (UI) agencies began even before the full scope of COVID-19's impact became clear. In late February 2020, the Department was engaged with the state of Washington on proactive measure and flexibilities the state could use to address COVID-19 issues. Since that time, the Department has issued six Unemployment Insurance Program Letters (UIPLs) providing needed guidance and instruction for states to implement the new unemployment insurance provisions of the CARES Act. The essential guidance for the Act's implementation was issued in less than ten days after the bill's signing. States have used this information to help them provide additional unemployment benefits to workers across the country, including the self-employed and other workers who are not covered by the traditional UI program.

On April 5, the Department's Employment and Training Administration (ETA) published UIPL No. 16-20, containing operating instructions for states on implementation of the PUA program. In response to clarifying questions ETA has received and responded to regarding the UIPL, follow-up guidance will be issued in the near future. This guidance will respond to frequently asked questions to support state workforce agencies in implementing the PUA program and will be posted on ETA's website for state workforce agencies' reference. ETA's senior leadership has also scheduled a webinar to discuss this information with state workforce agencies on April 22.

The Department has proactively and consistently worked to support state workforce and UI agencies in this unprecedented time, including the specific items discussed below.

In your letter, you raise a number of questions and suggestions regarding ETA's implementation of the CARES Act. The following are updates on the Department's ongoing work on the items you noted:

1. **Either a positive test or having symptoms and seeking a diagnosis is sufficient for PUA eligibility.** ETA's guidance for sections 2102(a)(3)(A)(ii)(I)(aa), (bb), and (ff) of the CARES Act references circumstances under which an individual testing positive for COVID-19 possibly qualifies him or her to receive PUA. ETA will continue to reiterate the guidance in UIPL 16-20 that while a positive test is sufficient to qualify for PUA under these provisions, a qualifying diagnosis does not require a positive test. It was for this purpose that, as your letter notes, the guidance referred to a test or diagnosis. Any diagnosis from a qualified medical health professional is also sufficient for a person to qualify for PUA under section 2102(a)(3)(A)(ii)(I), provision (aa), for an individual who has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a diagnosis; (bb) when a member of the individual's household has been diagnosed with COVID-19; and (ff) when the individual is unable to reach the place of employment because the individual has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
2. **Either a positive test or having symptoms and seeking a diagnosis is sufficient for PUA eligibility, regardless of the impact on the employment relationship.** The examples provided in UIPL No. 16-20 for which a claimant may qualify for PUA under section 2102(a)(3)(A)(ii)(I)(aa) of the CARES Act are not intended to be comprehensive. Quitting one's job is not the only circumstance under which an individual is unemployed, partially unemployed, or unable or unavailable for work because the individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis. ETA will continue to reiterate the guidance in UIPL 16-20, issued on April 5 and prior to the date of your letter, that an individual may also qualify under section 2102(a)(3)(A)(ii)(I)(aa) of the CARES Act if an individual is forced to take unpaid time off work because they have been diagnosed with COVID-19 or are experiencing symptoms of COVID-19 and seeking a medical diagnosis.
3. **The closure of a school or another facility is equally sufficient for PUA eligibility.** Section 2102(a)(3)(A)(ii)(I)(dd) of the CARES Act provides that an individual may be eligible for PUA if he or she has primary caregiving responsibility for a child or other person who 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 example provided in UIPL No. 16-20 indicates that school is not closed as a direct result of the COVID-19 public health emergency after the school year was originally scheduled to end. Acknowledging that parents may rely on other facilities to provide summer care for their children, ETA will continue to reiterate the guidance stated in both UIPL 16-20 from April 5 and the public FAQs¹ from last week that if these other facilities are also closed due to the COVID-19 public health emergency, the individual may be eligible for PUA benefits.
4. **Stay-at-home and shelter-in-place orders are equally sufficient for PUA eligibility.** The example provided in UIPL No. 16-20 for which a claimant may qualify for PUA under section 2102(a)(3)(A)(ii)(I)(ee) of the CARES Act includes

¹ See *Frequently Asked Questions*, <https://www.dol.gov/coronavirus/unemployment-insurance>.

an individual who is unable to travel because of a state or municipal order restricting travel that was instituted to combat the spread of COVID-19. As ETA made clear in FAQs posted last week and prior to the date of your letter, this also applies to stay-at-home, shelter-in-place, and other orders that require individuals to stay home in quarantine to reduce the spread of COVID-19.²

5. **Health care advice to self-quarantine is sufficient for PUA eligibility.** The examples provided in UIPL No. 16-20 for which a claimant may qualify for PUA under section 2102(a)(3)(A)(ii)(I)(ff) of the CARES Act are not intended to be exclusive or comprehensive; they are examples. ETA will continue to reiterate the guidance in UIPL 16-20 that this provision allows for PUA eligibility for all individuals who are advised by a healthcare provider to self-quarantine due to any serious health concerns related to COVID-19.
6. **The Secretary of Labor established additional criteria to cover gig workers.** The Secretary used his authority under section 2102(a)(3)(A)(ii)(I)(kk) to ensure additional eligibility criteria for rideshare drivers. This expanded eligibility in the CARES Act comes on top of the flexibilities that the Department outlined for states on March 12, 2020 in UIPL 10-20. In keeping with previous guidance, ETA will continue to remind states that an independent contractor may be eligible for PUA if they are unemployed, partially unemployed, or unable or unavailable to work because of one of the COVID-19-related reasons. As the Department explained in FAQs posted last week prior to your letter, this includes an independent contractor who experiences a significant diminution of work as a direct result of COVID-19.³
7. **PUA eligibility factors can be both sequential and contemporaneous.** An individual may continue to qualify for PUA if the precise provision for initial qualification overlaps with or is adjacent to a subsequent qualification under another precise provision provided under section 2102(a)(3)(A)(ii)(I) of the CARES Act. ETA will clarify that this applies without requiring that the individual complete a separate initial claim.
8. **Territories are able to implement FPUC.** ETA has made clear that under a plain reading of section 2102 of the CARES Act, territories are eligible for Federal Pandemic Unemployment Compensation (FPUC), the \$600 weekly benefit to supplement PUA benefits. ETA has already informed the territories of this interpretation, and is providing ongoing technical assistance to support implementation. Additionally, please find a letter of gratitude from the Governor of Guam to Secretary Scalia enclosed on this point.

² Ibid.

³ Ibid.

The Department will continue to support state workforce agencies as they implement the CARES Act. As is evidenced by the attached chronology, the Department has been and remains committed to proactive and ongoing communication with state workforce and UI partners. If you have additional questions, please contact the Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,



Joe Wheeler
Deputy Assistant Secretary

Enclosures

ETA Office of Unemployment Insurance COVID-19 Chronology

Updated April 16, 2020

February 28, 2020: Began working early with states (WA, ME) to explore flexibilities related to the states' unemployment insurance (UI) response to COVID-19.

March 12, 2020: Published UIPL 10-20, Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 COVID-19), which provides states with information on the flexibilities in Federal law that states may consider in shaping their laws and policies to serve coronavirus victims. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8893

March 17, 2020: Conducted a webinar to review UIPL 10-20 attended by over 800 state participants.

March 18, 2020: E-Blast to states communicating a set of flexibilities related to certain UI functions (BAM, BTQ, TPS) to enable states to shift staff to take claims on March 18, 2020.

March 18, 2020: Families First Coronavirus Response Act (P.L. 116-127) enacted including provision of \$1 billion for states to administer their regular state UI programs and full Federal funding of the Extended Benefit program.

March 19, 2020: Held call with state workforce administrators on UI guidance, availability of Dislocated Worker Grants, and commonly asked questions on administrative reporting and allowable costs.

March 19, 2020: Updated www.CareerOneStop.org to make it easier for website users to find information on COVID-19-related unemployment assistance. <https://www.careeronestop.org/>

March 20, 2020: Secretary Scalia and Assistant Secretary Pallasch participated in bipartisan meetings on Capitol Hill with Secretary Mnuchin to discuss legislation regarding the COVID stimulus package.

March 22, 2020: Published UIPL 13-20, Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020, with guidance on the new provisions. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634

March 23, 2020: UI Administrator call with states to discuss UIPL 13-20 and state of play of emerging COVID legislation.

March 25, 2020: Secretary Scalia and Assistant Secretary Pallasch participated in calls with Senator Tim Scott (SC), Senator Rick Scott (FL) Senator Ben Sasse (NE), Senator Lindsay Graham (SC), and Senator Rob Portman (OH) to discuss COVID legislation.

March 26, 2020: Engaged with the United States Digital Service (USDS) and GSA's Technology Transformations Service (TTS).

March 27, 2020: Assistant Secretary and UI Administrator call with states to discuss implementation issues for UIPL 13-20.

March 27, 2020: Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136) enacted with numerous UI provisions:

- Pandemic Unemployment Assistance – DUA-like and covers self-employed, among others
- Emergency Relief for Reimbursing Employers – provides refunds to employers charged for unemployment benefits to COVID-impacted workers
- Payment for states that opt to enter into an agreement to enable Federal reimbursement for the first week of benefits if they waive their waiting week
- Federal Pandemic Emergency Compensation – provides \$600 on top of every unemployment check for multiple programs
- Pandemic Emergency Unemployment Compensation – for exhaustees
- Short Time Compensation (Shared Work) grant program and reimbursement of benefits
- And other provisions:
- Appropriation of additional \$345 million for Dislocated Worker Grants
- Durational limits extended for low-income seniors to complete participation in community service assignments, under the Older Americans Act's Senior Community Service Employment Program (SCSEP)
- Increased administrative cost limits for SCSEP and Workforce Innovation and Opportunity Act grantees
- Reiterated flexibilities for use of Rapid Response funds to respond to pandemic.

March 28, 2020: Agreements from all 53 states/territories with UI programs executed for CARES Act programs.

March 30, 2020: Secretary Scalia and Assistant Secretary Pallasch participated in a call with Senator Charles Schumer (NY), Senator Bernie Sanders (VT), and Senator Ron Wyden (OR) to discuss the Department of Labor's rollout and implementation of the CARES Act.

March 30, 2020: Secretary Scalia participated in President Trump's conference call with governors' offices to discuss challenges facing states in administering their Unemployment Insurance systems.

March 31, 2020: Assistant Secretary and UI Administrator participated in National Governor's Association call with governors' offices and state workforce agencies to discuss implementation of the CARES Act.

March 31, 2020: Convened conference call with Treasury and USDOL (OCFO, DBC, ETA Budget, OUI) to discuss mechanics of implementing CARES Act funding provisions

April 2, 2020: Secretary Scalia and Assistant Secretary Pallasch participated in conference call with state and local workforce leaders to discuss challenges facing states in administering their Unemployment Insurance systems.

April 2, 2020: Published UIPL No. 14-20: Overarching guidance on CARES Act provisions and merit staffing flexibility. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390

April 4, 2020: Published UIPL No. 15-20: Federal Pandemic Unemployment Compensation. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297

April 5, 2020: Published UIPL No. 16-20: Pandemic Unemployment Assistance.
https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628

April 6, 2020: Held webinar for state workforce and unemployment insurance agency leadership and staff on UIPL 14-20

April 7, 2020: Finalized all accounting structures to allow states and territories to draw down on U.S. Treasury funds to cover CARES Act benefits; states are able to draw down funding as needed. Provided e-blast to states to remind them of procedural details to access funds.

April 8, 2020: Held webinar for state workforce and unemployment insurance agency leadership and staff on PUA UIPL

April 9, 2020: Held webinar for state workforce and unemployment insurance agency leadership and staff on FPUC UIPL

April 10, 2020: ETA published UIPL 17-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions. https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8452

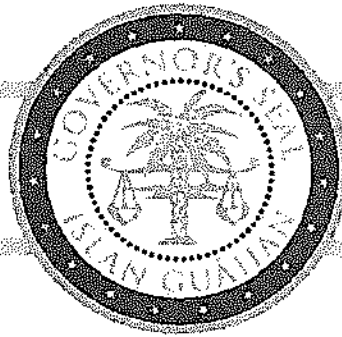
April 14, 2020: Held webinar for state workforce and unemployment insurance agency leadership and staff on PEUC UIPL.

April 14, 2020: Assistant Secretary of Employment and Training emailed all state workforce administrators and unemployment insurance directors with additional clarity on program integrity measures

April 15, 2020: Secretary of Labor and Assistant Secretary of Employment and Training held joint CARES Act UI provisions media call to answer questions about state implementation efforts and Departmental guidance

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OFFICE OF THE GOVERNOR

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MAGATHAGA - GOVERNOR



JOSINA C. TENDRILLO
SINDO MAGATHAGA - DEPUTY GOVERNOR

April 8, 2020

Honorable Eugene Scalia
Secretary of Labor
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Mr. Secretary:

I am writing as a follow-up to my letter dated, April 3, 2020, where I raised a concern regarding the Department of Labor's Advisory (*Unemployment Insurance Program Letter No. 15-20*) of the CARES Act, specifically the ineligibility of Guam, the Northern Mariana Islands, and American Samoa to participate in the Federal Pandemic Unemployment Compensation (FPUC) program.

I am grateful for your leadership and that the Labor Department has issued a new Advisory (*Unemployment Insurance Program Letter No. 16-20 - UIPL*), which clarifies the participation of all aforementioned U.S. territories under FPUC. Specifically, in *UIPL No. 16-20*, 4(a) states that "...individuals eligible to receive PUA are also eligible to receive FPUC, authorized under section 2104 of the CARES Act."; it continues, (d) "The PUA program is administered through a voluntary agreement between states and the Department. The program is available in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Island, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, provided the state/territory signs an agreement with the Department."

The new Advisory will ensure that all Americans are able to benefit from this program intended to provide benefits for qualified individuals who are unemployed, partially employed, unable or unavailable to work due to the COVID-19 pandemic.

For Guam, the Labor Department's clarification, could provide approximately \$960 per/week. This benefit will go towards assisting thousands of Guam's residents who have been displaced or put out of work because of the COVID-19 impact on Guam's economy.

Thank you again for your leadership and for the quick action taken in response to my concern.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

cc: *Sigundo Maga'låhen Guåhan*