

Pandemic Unemployment Assistance (PUA) Implementation and Operating Instructions

A. Introduction:

On March 27, 2020, the President signed Public Law (Pub. L.) 116-136, the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. Section 2102 creates a new federal program called Pandemic Unemployment Assistance (PUA) and provides funding to states for the administration of the program. The PUA program generally allows states that enter into an agreement with the Secretary of Labor to pay up to 39 weeks of benefits to individuals who are not eligible to receive or who have exhausted regular unemployment compensation (UC), Extended Benefits (EB), and Pandemic Emergency Unemployment Compensation (PEUC) under Section 2107, and who otherwise meet the eligibility requirements of the CARES Act. The costs of the new federal benefit and of program administration are 100% federally funded. This guidance explains the eligibility requirements and other administrative functions associated with the program.

B. Definitions:

This section contains the definitions of terms used throughout this document, using definitions in 20 C.F.R. 625.2 and in section 205 of the Federal-State Extended Unemployment Compensation Program (hereafter called the Federal-State EB Law). References to 5 U.S.C. chapter 85 relate to Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX).

1. “Act” means Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), including Title II Subtitle A, The Relief for Workers Affected by Coronavirus Act.
2. “Additional compensation” means compensation totally financed by a state and payable under a state law by reason of conditions of high unemployment or by reason of other special factors, and when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85.
3. “Agreement” means the agreement between a state and the U.S. Department of Labor (Department) to administer the PUA Program. Under the agreement, the state agency makes payments of PUA as the Department’s agent. PUA payments must be made in accordance with the Act as interpreted by the Department in these instructions and any other instructions issued by the Department.
4. “Applicable state” means, with respect to an individual, the state from which the individual is receiving compensation.
5. “Applicable state law” means the unemployment compensation law of the applicable state for an individual.
6. “Benefit year” means, with respect to an individual, the benefit year as defined in the applicable state law.
7. “Compensation” shall have the meaning provided in 20 C.F.R. 265.2(d).
8. “COVID-19” means the 2019 Novel Coronavirus or 2019-nCoV.

9. "COVID-19 Public Health Emergency" means the public health emergency declared by the Secretary of Health and Human Services on January 27, 2020, with respect to the 2019 Novel Coronavirus.
10. "Covered Individual" means an individual who is not eligible for regular compensation or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107 of the Act, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or pandemic emergency unemployment compensation under section 2107; and provides self-certification that the individual meets the requirements in Section C.1, below.
11. "Department" means the U.S. Department of Labor.
12. "Extended compensation" means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of the state law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970 (Pub. L. 91-373), and when so payable includes additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85. Extended compensation is referred to as Extended Benefits or EB.
13. "Federal Pandemic Unemployment Compensation" means the compensation payable under section 2104 of the Act and is referred to as FPUC.
14. "Pandemic Unemployment Assistance" means the compensation payable under section 2102 of the Act and is referred to as PUA.
15. "Pandemic Emergency Unemployment Compensation" means compensation payable under section 2107 of the Act and is referred to as PEUC.
16. "Regular compensation" means compensation payable to an individual under any state law or the unemployment compensation plan of a political subdivision of a state and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85 (parts 609 and 614 of this chapter), but not including extended compensation or additional compensation.
17. "Secretary" means the U.S. Secretary of Labor.
18. "State" means the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, 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.
19. "State agency" means the agency of the state which administers its state law and, for 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 it means the agency designated in the Agreements entered into with the Department.
20. "State law" means the unemployment compensation law of a state, approved by the Secretary under Section 3304 of the Federal Unemployment Tax Act (FUTA). (26 U.S.C. § 3304(a)).
21. "Week" means a week as defined in the applicable state law.
22. "Week of unemployment" is defined as used in 20 C.F.R. 265.2(w).

Note: Except as otherwise provided in Section 2102 of the Act or to the extent there is a conflict between Section 2102 and 20 C.F.R. Part 625, 20 C.F.R. Part 625 shall apply to Section 2102 as if the term "COVID-19 public health emergency" were substituted for the

term “major disaster” each place it appears in 20 C.F.R. Part 625 and the term “pandemic” were substituted for the term “disaster” each place it appears in 20 C.F.R. Part 625.

C. Operating Instructions:

1. Eligibility.

Section 2102 of the Act provides for payment of PUA to “covered individuals”. “Covered individuals” are those individuals not qualified for regular unemployment compensation, extended benefits under state or Federal law, or pandemic emergency unemployment compensation (PEUC), including those who have exhausted all rights to such benefits. “Covered individuals” also include self-employed, individuals seeking part-time employment, individuals lacking sufficient work history, or those otherwise not qualified for regular UC, extended benefits under state or federal law, or PEUC.

For purposes of PUA coverage, an individual “lacking sufficient work history” means an individual (1) with a recent attachment to the labor force (2) who does not have sufficient wages in covered employment during the last 18 months to establish a claim under regular UC, and (3) who became unemployed or partially unemployed because of one of the COVID-19 related reasons identified under Section 2102. Demonstration of a recent attachment to the labor force for PUA coverage purposes also includes individuals who had a bona fide offer to start working on a specific date and were unable to start due to one of the COVID-19 related reasons identified under Section 2102.

“Self-employed individuals” as defined in 20 C.F.R 625.2(n) means individuals whose primary reliance for income is on the performance of services in the individual’s own business, or on the individual’s own farm. These individuals include independent contractors, gig economy workers, and workers for certain religious entities.

PUA is generally not payable to individuals who have the ability to telework with pay, or who are receiving paid sick leave or other paid leave benefits. However, an individual receiving paid sick leave or other paid leave benefits for less than his or her customary work week may still be eligible for a reduced PUA WBA. The state must treat any paid sick leave or paid leave received by a claimant in accordance with the income restrictions set out in DUA at 20 C.F.R. 625.13, if the pay or paid leave exceeds the PUA WBA. Similarly, if an individual has been offered the option of teleworking with pay and does telework with pay, but is working less than the individual customarily worked prior to the COVID 19 pandemic, the individual may be eligible for a reduced PUA WBA. Income from such work would be treated in accordance with the income restrictions set out in DUA at 20 C.F.R. 625.13.

To be a “covered individual” under PUA, an individual must also self-certify that he or she is otherwise able to work and available for work, as provided under state law, except that the individual is unemployed, partially unemployed, unable to work or unavailable for work due to at least one of the following categories described below. Included for each of the categories are illustrative examples and explanations of circumstances that fall

under each category. These examples and explanations for each of the categories are not an exhaustive list of all COVID-19 related circumstances that may qualify an individual for PUA benefits, however, should other qualifying circumstances be used they must be identified and applied in a manner consistent with the examples below.

- a) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis. Examples may include:
- An individual who has to quit his or her job as a direct result of COVID-19 because the individual has tested positive for the coronavirus or has been diagnosed with COVID-19 by a qualified medical professional, and continuing work activities, such as through telework, is not possible by virtue of such diagnosis or condition;
 - An individual who has to quit his or her job due to coming in direct contact with someone who has tested positive for the coronavirus or has been diagnosed by a medical professional as having COVID-19, and, on the advice of a qualified medical health professional is required to resign from his or her position in order to quarantine.
- b) A member of the individual's household has been diagnosed with COVID-19. For example:
- A member of the individual's household has been diagnosed as having COVID-19 by a qualified medical professional or a member of the individual's household has tested positive for COVID-19 and the individual is unable to work as a result.
- c) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19. For example:
- An individual is "providing care" for a family member or a member of the individual's household if the provision of care requires such ongoing and constant attention that the individual's ability to perform other work functions is severely limited. An individual who is assisting a family member who is able to adequately care for him or herself is not "providing care" under this category.
- d) 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. For example:
- An individual has "primary caregiving responsibility" for a child or other person in the household if he or she is required to remain at home to care for the child or other person.
 - This includes an individual whose job allows for telework, but for whom the provision of care to the child or other person with a closed school or other

facility requires such ongoing and constant attention that it is not possible for the individual to perform work at home.

- e) 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. For example:
- An individual who is unable to reach his or her place of employment because doing so would require the violation of a state or municipal order restricting travel that was instituted to combat the spread of COVID-19.
- f) 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. Examples include:
- An individual who has been advised by a qualified medical professional that he or she may be infected with the coronavirus and that he or she therefore should self-quarantine. For example, an individual had direct contact with another person who has tested positive for the coronavirus or been diagnosed with COVID-19 by a qualified medical professional, and is advised by a health care provider to self-quarantine to prevent further possible spread of the virus. Such circumstances would render the individual unable to reach his or her place of employment.
 - An individual whose immune system is compromised by virtue of a serious health condition and is therefore advised by a health care provider to self-quarantine in order to avoid the greater-than-average health risks that the individual might face if he or she were to become infected by the coronavirus.
- g) 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. For example:
- An individual is unable to reach his or her job because doing so would require the violation of a state or municipal order restricting travel that was instituted to combat the spread of the coronavirus or the employer has closed the place of employment.
 - An individual does not have a job because the employer with whom the individual was scheduled to commence employment has rescinded the job offer as a direct result of the COVID-19 public health emergency.
- h) 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. For example:
- An individual whose head of household previously contributed the majority of financial support to the household died as a direct result of COVID-19, and the individual is now the person in the household expected to provide such financial support.

- i) The individual has to quit his or her job as a direct result of COVID-19. For example:
- An individual was diagnosed with COVID-19 by a qualified medical professional, and although the individual no longer has COVID-19, the illness caused health complications that render the individual objectively unable to perform his or her essential job functions, with or without a reasonable accommodation.
- j) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency. For example:
- If a business is shut down due to an emergency declaration or due to necessary social distancing protocols, the unemployment of individuals who worked in the business would be considered a direct result of COVID-19.
- k) The individual meets any additional criteria established by the Secretary for unemployment assistance under this section.
- The Secretary has determined that, in addition to individuals who qualify for benefits under the other criteria described above, an individual who works as an independent contractor with reportable income may also qualify for PUA benefits if he or she is unemployed, partially employed, or unable or unavailable to work because the COVID-19 public health emergency has severely limited his or her ability to continue performing his or her customary work activities, and has thereby forced the individual to suspend such activities. For example, a driver for a ridesharing service who receives an IRS Form 1099 from the ride sharing service may not be eligible for PUA benefits under the other criteria outlined above, because such an individual does not have a "place of employment," and thus cannot claim that he or she is unable to work because his or her place of employment has closed. However, under the additional eligibility criterion established by the Secretary here, the driver may still qualify for PUA benefits if he or she has been forced to suspend operations as a direct result of the COVID-19 public health emergency, such as if an emergency state or municipal order restricting movement makes continued operations unsustainable.

States are required to do the following to ensure the efficacy and integrity of the self-certification process:

- Include information on the self-certification form (either paper or on-line), that the claimant completes, including:
 - Separate from the actual certification, an acknowledgement that the claimant understands that making the certification is under penalty of perjury; and
 - Information that advises the claimant that intentional misrepresentation in self-certifying that he or she falls in one or more of these categories is fraud.
- Provide clear messaging on-line that claimants may be subject to criminal prosecution if they are found to have committed fraud.

States are also required to take reasonable and customary precautions to deter and detect fraud, such as, for example, a random audit of a sample of claims to detect fraud.

States should bear in mind that many of the qualifying circumstances described in section 2102(a)(3)(A)(ii)(I) are likely to be of short term duration. For example, an individual who has been advised to self-quarantine by a health care provider because of the individual's exposure to a person who has tested positive for the coronavirus, and is therefore unable to reach his or her place of employment for purposes of 2102(a)(3)(A)(ii)(I)(ff), may be able to return to his or her place of employment within two weeks of the exposure if he or she has not exhibited symptoms of COVID-19 or tested positive for the coronavirus. Similarly, a school is not closed as a direct result of the COVID-19 public health emergency, for purposes of 2102(a)(3)(A)(ii)(I)(dd), after the date the school year was originally scheduled to end. As such, the expectation is that states will continue to apply their able, available, and actively seeking work standards as outlined in state law.

States should also note that, for purposes of section 2102(a)(3)(A)(ii)(I)(ii), an individual does not have to quit his or her job as a direct result of COVID-19 if paid sick leave or other paid leave benefits are available to the individual. Generally, an employee "has to quit" within the meaning of this section only when ceasing employment is an involuntary decision compelled by the circumstances identified in the section.

In general, a determination about whether actions are a "direct result", as explained above, should be made based on 20 C.F.R. 625.5(c). When making a determination under the regulation, states should take into account specific circumstances unique to the COVID-19 public emergency. For example, if a business is shut down due to an emergency declaration or due to necessary social distancing protocols, the unemployment of individuals who worked in the business would be considered a direct result of COVID-19.

Individuals who meet the following criteria are not eligible for PUA:

- a. Individuals who have the ability to telework with pay. When addressing issues about the availability of paid telework, the state must determine whether the claimant has been offered the option of continuing to work for pay by teleworking. If so, and claimants were offered to continue to work the same number of hours, claimants are not eligible for PUA.
- b. Individuals receiving paid sick leave or other paid leave benefits. If claimants receive such leave for their customary work hours, they are not eligible for PUA. The state must treat any paid sick leave or paid leave received by a claimant in accordance with the income restrictions set out in DUA at 20 C.F.R. 625.13.

If the state has further questions in determining whether an individual's qualifying circumstances are a direct result of the COVID-19 public health emergency (as distinguished from circumstances that are a direct result of COVID-19 under the terms of section 2102), the state should refer to 20 C.F.R. 625.5(c).

2. Determining Exhaustees. A PUA claimant ceases to be regular UC, PEUC, and EB exhaustee when he or she can establish a valid new benefit year. If an individual is no longer a regular UC, EB, or PEUC exhaustee, the individual will not meet the definition of a covered individual and may not receive PUA benefits. Therefore, at each quarter change, the state must check to determine if an individual meets the state's requirements to establish a new benefit year. If individuals can establish a new benefit year, they are no longer eligible for PUA. In these cases, the claimants should be advised that they are no longer eligible for PUA and that they may file a regular UC, PEUC or EB claim.
3. Beginning and Ending Dates of the PUA Program. Under Section 2102 of the Act, states may begin making PUA payments after their agreement with the Secretary is signed.

Once the agreement is signed, PUA must be paid starting with weeks of unemployment beginning on or after January 27, 2020, if the individual meets PUA's eligibility requirements. In states where the week of unemployment ends on Saturday, the first week for which PUA may be paid is the week ending February 8, 2020. In states where the week of unemployment ends on Sunday, the first week for which PUA may be paid is the week ending February 9, 2020.

Thus, PUA claims may be backdated to February 2, 2020, the first week of the Pandemic Assistance Period (PAP), if the individual otherwise meets the eligibility requirements to receive PUA as of that date, including the requirement that the individual's unemployment was due to the COVID-19 related reasons listed in section C.1.

States may not make PUA payments with respect to weeks of unemployment ending after December 31, 2020. Thus, in states where weeks of unemployment end on a Saturday, the last compensable week for the PUA program is the week ending December 26, 2020. In states where the week of unemployment ends on Sunday, the last compensable week for the PUA program is the week ending December 27, 2020.

4. State PUA Agreements with the Department. The PUA program is administered through voluntary agreements 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 Islands, 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.
5. Termination of PUA Agreement. Either party, upon thirty days written notice, may terminate the PUA Agreement. The Department reserves the right to terminate this Agreement if it determines that the State does not have an adequate system for administering such assistance, including because the State is not adequately ensuring that individuals receiving benefits under the PUA Program are eligible for such benefits. In the case of termination, the PUA period will end 30 days after the date one of the parties to the agreement notifies the other party of its election to terminate the PUA agreement. No PUA payments may be made with respect to weeks which begin after the date the

termination of the agreement is effective. However, PUA is payable for weeks of unemployment ending on or before such termination date.

6. Agreements between States. One state that has entered into an agreement with the Department to operate a PUA program may choose to enter into an agreement with another state that has an agreement with the Department to operate the program on behalf of the other state.

7. Processing PUA Claims.
 - a. Applicability of State Law Provisions. Under Section 2102(h) of the Act, 20 C.F.R. Part 625 applies to the administration of this program except as otherwise provided in Section 2102. Consistent with 20 C.F.R 625.11, the terms and conditions of the state law of the applicable state for an individual which apply to claims for, and the payment of, regular compensation apply to the payment of PUA to individuals. The provisions of the applicable state law that apply to claims for PUA include, but are not limited to:
 - Claim Filing and Reporting;
 - Information and Due Process to individuals;
 - Notices to individuals and employers, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to PEUC;
 - Determinations, redeterminations, appeals, and hearings;
 - Disqualification, including disqualifying income provisions;
 - Ability to work and availability for work, absent a COVID-19 related circumstance listed above;
 - The Interstate Benefit Payment Plan; and
 - The Interstate Arrangement for Combining Employment and Wages.

 - b. Claims for PUA. In processing claims for PUA, states must verify that individuals have no regular UI entitlement. If the individual is not eligible for regular UI because there are insufficient covered wages or the individual has an active UI claim with a definite or indefinite disqualification, then a state does not need to require the individual to file a regular UI initial claim. However, the state must have an established process whereby the individual's ineligibility for regular UI is documented on the application.

 - c. If the individual's eligibility for regular UI is questionable (for example, there are wages in the base period but no claim is filed, or a job separation that has not been adjudicated), then the state must first require the individual to file a regular UI initial claim. If the individual is subsequently disqualified, then the state may consider the individual for PUA eligibility.

8. Establishment of the Effective Date of PUA claims. The Pandemic Assistance Period (PAP) begins February 2, 2020 (the first week following the beginning date provided

by the CARES Act) and ends on December 26, 2020 (the last week provided by the CARES Act, in states where weeks of unemployment end on a Saturday) or December 27, 2020 (the last week provided by the CARES Act, in states where weeks of unemployment end on a Sunday).

PUA claims are effective the week filed. However, they must be backdated to the first week during the PAP in which the individual meets the definition of a covered individual.

9. Establishment of PUA Weekly Benefit Amount. Section 2102(d) of the Act requires the state to pay individuals the WBA under the UC law of the state where the covered individual was employed plus the \$600 FPUC payment. The minimum WBA may not be less than the minimum WBA in 20 C.F.R. 625.6 before the amount of FPUC under Section 2104 of the Act is added.

If an individual is self-employed or would not otherwise qualify for UC under a state's law, the individual's PUA WBA is calculated as provided in 20 C.F.R. 625.6 and is increased by the \$600 FPUC payment. If a self-employed individual or an individual who is "lacking sufficient work history" had earnings for the prior tax year that would result in a lower WBA than the minimum DUA WBA that is outlined in the quarterly UIPL for the Minimum DUA benefit, the individual's WBA must be the minimum amount listed in the quarterly UIPL. Since the PAP began on February 2, 2020, the state's minimum PUA WBA for the period February 2, 2020, through March 31, 2020, will be calculated based on UIPL No. 3-20. If an individual lives in a territory that does not provide unemployment compensation under its law, the individual's PUA WBA is calculated as provided in 20 C.F.R. 625.6.

10. Establishment of PUA Maximum Entitlement (Number of weeks of PUA). The total number of weeks in which a covered individual may receive PUA may not exceed 39 weeks and such total must include any week for which a covered individual received regular compensation or extended benefits under any state or federal law.

Section 2102 of the Act provides that if extended benefits duration is extended after March 27, 2020, the 39-week period shall be extended by the number of weeks that is equal to the number of weeks by which the extended benefits were extended. Thus, if a state enters a "high unemployment period," as provided in section 202(b)(3)(B) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), up to an additional 7 weeks of benefits for a total of 46 weeks of PUA benefits would be available to eligible individuals. However, note that PUA entitlement must be reduced by the amount of regular compensation and extended benefits the individual received.

11. Other PUA Operational Instructions.

- a. Total Unemployment. The WBA payable to an individual for a week of total unemployment is equal to the individual's most recent WBA (including any dependents' allowances) for the applicable PAP.

- b. Partial and Part-Total Unemployment. To determine the amount payable for a week of partial or part-total unemployment, the state will calculate the payment amount in accordance with the state law applicable to such a week of unemployment.
 - c. The terms and conditions of the state law which apply to claims for regular compensation and extended benefits and the payment thereof shall apply to claims for PUA and the payment thereof except as provided in these operating instructions and any additional guidance issued regarding the PUA program.
12. Secretary's Standard. The procedures for reporting and filing claims for PUA must be consistent with these instructions and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (Employment Security Manual, Part V, sections 5000 et. seq.).
13. Determination of Entitlement: Notices to Individuals.
- a. Determination of Initial Claim. When an individual files an initial claim for PUA the state agency must determine promptly the eligibility of the individual and, if eligible, the weekly and maximum amounts of PUA payable. If denied PUA, the individual must be issued an appealable determination.
 - b. Determination of Weekly Claims. The state agency must promptly, upon the filing of a claim for a payment of PUA for a week of unemployment, determine whether the individual is entitled to a payment of PUA for such week, and, if entitled, the amount of PUA to which the individual is entitled to and issue a prompt payment.
 - c. Redetermination. An individual filing a PUA initial claim or weekly certification has the same rights to request a reconsideration of a determination as are provided for in the applicable state law for regular compensation.
 - d. Notices to Individual. The state agency must give written notice to the individual of any determination or redetermination of an initial claim and all weekly claims. Each notice must include such information regarding rights to reconsideration or appeal, or both, using the same process that is used for redeterminations of regular compensation.
 - e. Promptness. Full payment of PUA when due must be made as soon as administratively feasible.
 - f. Secretary's Determination Standard. The procedures for making determinations and redeterminations and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals claiming PUA must be consistent with the Secretary's "Standard for Claim Determinations—Separation

Information" (Employment Security Manual (ESM), Part V, sections 6010 et seq.). In processing claims, states must comply with section 6013 of the ESM about conducting an investigation and section 6014 of the ESM concerning gathering separation information from employers when the claim involves separation from an employer.

g. Appeal and Hearing.

- Applicable State Law. To ensure that appeals and hearings are held promptly, the applicable state law provisions concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to regular compensation shall apply to determinations and redeterminations of eligibility for or entitlement to PUA.
- Rights of Appeal and Fair Hearing. The right of appeal and opportunity for a fair hearing to claims for PUA must be consistent with these instructions and with sections 303(a)(1) and 303(a)(3) of the Social Security Act (SSA) (42 U.S.C. 503(a)(1) and 503(a)(3)).
- Promptness of Appeals Decisions.
 - Decisions on appeals under the PUA Program must accord with the "Standard for Appeals Promptness—Unemployment compensation" in 20 C.F.R. Part 650.
 - Any applicable state law provision allowing the advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, must apply to proceedings involving entitlement to PUA.

h. Fraud and Overpayment. The requirements of 20 C.F.R. 625.14 shall apply with respect to PUA overpayments and fraud to the same extent and in the same manner as in the case of DUA.

i. A state may also use other federal UC to recover PUA overpayments made in that state, regardless of whether the state has an agreement under Section 303(g)(2) of the Social Security Act (SSA) (42 U.S.C. §503(g)(2)). This includes FPUC and PEUC.

j. Further, if a state has an Interstate Reciprocal Overpayment Recovery Arrangement in effect with the National Association of State Workforce Agencies, PUA may only be used to offset PUA overpayments for another state. However, a state may use state or other federal UC paid in that state to recover PUA overpayments for other states.

14. Effect of Other UI-Related Programs on Eligibility for PUA.

- a. Trade Readjustment Allowances (TRA). Individuals are not eligible for TRA until PUA entitlement is exhausted. The provisions of Section 233(d) of the Trade Act of 1974, as amended, (relating to reduction of EB entitlement because of the receipt of TRA in the most recent benefit year) are not applicable to determinations of entitlement to PUA.
- b. Disaster Unemployment Assistance (DUA). If an individual is eligible for DUA with respect to a week of unemployment under Section 410 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, (42 U.S.C. 5177) the individual is not eligible to receive PUA for that week.

15. Effect of State Additional Compensation (AC). Section 2102 of the Act and, by reference, DUA regulations at 20 C.F.R. Part 625 require that an individual have no rights to regular compensation, extended benefits, or additional compensation in order to meet the eligibility requirements for PUA.

16. Effect of Federal Pandemic Unemployment Compensation (FPUC). Section 2102 of the Act provides that the \$600 FPUC payments provided under section 2104 of the Act be added to the PUA WBA. Note that the FPUC payment may be made separately from the PUA payment or combined with that payment, and that FPUC payments may only be made with respect to weeks of unemployment ending on or before July 31, 2020.

17. Coordination Rule. Section 2102 of the CARES Act requires, as a condition of PUA eligibility, that an individual not be eligible for regular compensation or extended benefits under state or federal law or pandemic emergency unemployment compensation under Section 2107, or to have exhausted all rights to regular unemployment or extended benefits under state or federal law or pandemic emergency unemployment compensation under Section 2107.

18. Record Maintenance and Disposal of Records. The state must maintain PUA payment data as required by the Department.

- a. Record Maintenance. Each state will maintain records on the administration of the PUA program and will make all such records available for inspection, examination, and audit by such federal officials, employees as the Department may designate, or as may be required by the law. Reference ET Handbook No. 401, *UI Report Handbook* for details.
- b. Disposal of Records. The electronic/paper records created in the administration of the PUA program must be maintained by the state for three years after final action (including appeals or court action) on the payments, or for less than the three-year period if copied by micro photocopy or by an electronic imaging method. At the end of the three-year period, the PUA records shall be transferred to state accountability under the conditions for the disposal of records that apply to UCFE and UCX records, as explained in Chapter X of ET Handbook No. 391 (1994

Edition) (OMB No. 1205-0179) and Chapter I of ET Handbook No. 384 (1994 Edition) (OMB No. 1205-0176).

19. Disclosure of Information. Information in records made and maintained by the state agency in administering the PUA program must be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation, and the entitlement of individuals thereto, may be disclosed under provisions of the applicable state law meeting the requirements of 20 C.F.R. Part 603. As provided under 20 C.F.R. 603.4(b), the confidentiality requirements do not apply when such information is being provided in the aggregate, provided it cannot be combined with other publicly available information to reveal any such identifying particulars about an individual or the individual's past or present employer.
20. Inviolate Rights to PUA. The rights of individuals to PUA must be protected in the same manner and to the same extent as the rights of persons to regular UC are protected under the applicable state law. Such measures must include protection of individuals from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to PUA. In the same manner and to the same extent, individuals must be protected from discrimination and obstruction in regard to seeking, applying for, and receiving PUA.
21. Notifications.
 - a. *Identification and Notification of Potentially Eligible Claimants*. The state must identify individuals who are potentially eligible for PUA and provide them with appropriate written notification of their potential entitlement to PUA, including filing instructions. This includes notifying claimants who were found ineligible for UC as far back as January 27, 2020.
 - b. *Interstate Claims*. PUA is payable to individuals filing under the Interstate Benefit Payment Plan in the same manner and to the same extent that benefits are payable to intrastate claimants. The liable state is responsible for identifying and notifying all potentially eligible interstate claimants of their potential eligibility, including filing instructions.
 - c. *Notification of Media*. To assure public knowledge of the status of the PUA program, the state must notify all appropriate news media having coverage throughout the state of the beginning of the PUA program.

D. Financial Information and Instructions:

1. Payment to States. Requesting PUA Benefit Funds—Under Section 2102(f)(2) of the CARES Act, each state that has entered into an agreement with the Secretary to pay PUA, will be paid an amount equal to 100% of the amount of PUA paid to eligible individuals by the state under the agreement and in full accordance with the CARES Act and these instructions. States will request funds from the Extended Unemployment Compensation Account (EUCA) through the Automated Standard Application for Payments (ASAP)

system. Drawdown requests must adhere to the funding mechanism stipulated in the Treasury-State Agreement executed under the Cash Management Improvement Act of 1990. Requests will be funded in the same manner as all ASAP transactions elected by the states (FEDWIRE or ACH to the state benefit payment account).

There will be one new line in the ASAP for making drawdowns to pay PUA benefits, refer to #3 below for drawdown instructions. The line will be clearly labeled PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA).

Section 2102(f)(2)(B) authorizes the Secretary to determine the amounts to be paid to states for processing PUA workloads. Such costs will be based on workload counts reported on the ETA902P report, and will incorporate minute per unit factors and salary rates identical to those used in the computation of the regular UC program above base administrative costs.

Administrative costs will be computed on the ETA 902P report, line 301, column 17. *See* Attachment VI for additional detail. The supplemental budget request process will be used for states to request funds for implementation.

2. PUA Accounting Obligational Authority. The Grant Officer will assign a separate line on the UI program notices of obligational authority for PUA administrative grant funds, and a separate sub-account for PUA will be set up in the Payment Management System for states to draw down PUA administrative funds.

Administrative Fund Accounting—Because of the separate appropriation for PUA administrative funds and the availability of these funds until expended, states must track and report PUA administrative expenditures and obligations separately from the regular UI program. Therefore, states must establish a separate fund ledger and must submit a separate ETA 9130 for the PUA program. States must include any PUA administrative expenditures and obligations incurred in March 2020 in their June 30, 2020, PUA ETA 9130 report.

3. Time Distribution. To ensure that PUA costs are tracked separately, states must charge time used for all PUA activities to the appropriate UI functional activity codes as outlined in Appendix E to ET Handbook No. 410 under the separate PUA fund ledger; however, states must combine regular and PUA staff year usage data in Section A of the UI-3 worksheet.
4. Accounting for PUA Payments (Benefits). PUA advances to the states' UTF accounts and disbursements for PUA benefit payments will be reported on the monthly ETA 2112. Do not use a separate form for this report. (*See* Reporting Instructions.) Accurate reporting of advances, reimbursements and payments is important due to the monthly reconciliation of balances with Department of Labor records.
5. Processing Refunds. There are two scenarios for returning funds to the program line for PUA.

- a. The most likely scenario will be when the state has funds in its state benefit payment account and needs to return those funds to the EUCA. This should be completed as a negative amount posted to the appropriate line in ASAP. To accomplish this, the total draw for the day in ASAP must be greater than the negative balance posted to the appropriate line.
- b. The second scenario is when a state actually has the funds in its Federal UI account that are required to be returned to the appropriate program line. This should be accomplished by the state processing a book transfer transaction that accomplishes a transfer from its UI account to the appropriate program under the EUCA account.

E. Reporting Instructions

1. ETA 2112. PUA benefit payment activity must be reported in the aggregate on the regular ETA 2112 report.
 - a. Line 23c. Pandemic Unemployment Assistance. Report in columns C and E the amount of Federal funds received as advances or reimbursement for PUA.
 - b. Line 42c. PUA Activity. Enter in columns C and F the net amount for which the Federal government is liable for PUA.
2. ETA 538. Total PUA initial claims processed during the report period and total PUA continued claims reflecting unemployment for the previous week will be reported in the comments section and labeled as “PUA IC” and “PUA CC” followed by the number. For example: “PUA IC =239” “PUA CC =15,135”. Regular initial claims and continued claims should not include PUA claims.
3. ETA 539. Total PUA initial claims processed during the report period and total PUA continued claims reflecting unemployment for the previous week will be reported in the comments section and labeled as “PUA IC” and “PUA CC” followed by the number. For example: “PUA IC =239” “PUA CC =15,135”. Regular initial claims and continued claims should not include PUA claims.
4. ETA 902. See Attachment VI for detailed instructions about this reporting.