

Pandemic Emergency Unemployment Compensation (PEUC) Questions
and Answers

Table of Contents

A.	PEUC Notification Requirement	2
B.	Claims Processing for PEUC	2
C.	Monetary Eligibility	3
D.	Work Search/Job Service Registration Requirements	5
E.	Non-Monetary Issue.....	5
F.	PEUC Intercepts and Overpayment Recovery.....	7
G.	Funding Request	9
H.	Reporting Questions.....	9

A. PEUC Notification Requirement

1. **Question:** Page 3 of UIPL No. 17-20 provides that one way for an individual to be deemed to have exhausted benefits for purposes of qualifying for PEUC is that “the individual’s right to such regular UC has been terminated by reason of the expiration of the benefit year with respect to which such rights existed (excluding any benefit year that ended before July 1, 2019).” What does this mean for purposes of the state notification?

Answer: This means that an individual may establish eligibility for PEUC based on a regular unemployment compensation (UC) claim that expired with a benefit year end (BYE) date on or after July 1, 2019. In most states, where a BYE ends on Saturday, the practical effect is that the state must notify any individual of the potential eligibility for PEUC whose benefit year expired on or after July 6, 2019, through the end date of the PEUC program.

2. **Question:** Is it sufficient notice for the state to post a banner on its state website announcing PEUC availability or must the state notify each potentially eligible individual?

Answer: The state agency is required to individually notify each potentially eligible individual. Posting information on the state website is insufficient for individual notice, though it is a good practice to supplement customer service and public awareness.

3. **Question:** Is there model language for notification of PEUC?

Answer: States should consider using the following language in its notification:

“The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 creates a new temporary federal program called Pandemic Emergency Unemployment Compensation (PEUC). PEUC provides up to 13 additional weeks of benefits to an individual who has exhausted all rights to any regular unemployment compensation and who meets other eligibility requirements of the CARES Act. You may be eligible for these federal benefits. If you wish to file a claim for PEUC, you may do so by [include the state’s claim filing information and instructions].”

B. Claims Processing for PEUC

1. **Question:** If an individual is in continued claim status for a regular UC claim when the exhaustion of benefits occur, may the UC claim be automatically switched to a PEUC claim without a PEUC initial claim?

Answer: No. An individual must file an application for PEUC benefits.

2. **Question:** Is an individual potentially eligible for PEUC if the individual filed a new claim and established a benefit year that ended on or after July 1, 2019, but received no payments before the benefit year ended (for example, the individual filed the UC claim

but immediately went back to work and did not collect any UC benefits on the benefit year before the claim expired)?

Answer: Yes. The individual is considered an exhaustee because the individual's right to such regular UC has been terminated by reason of the expiration of the benefit year, provided that the individual is not eligible for UC in any other state or in Canada.

3. Question: Does the state have to re-verify an alien's work authorization when considering the PEUC claim?

Answer: Yes, unless the state has information obtained from the verification made in connection with the regular UC claim that the alien's work authorization remains in effect. No additional verification is required until the expiration date of the individual's qualified alien status is reached.

4. Question: Is there a waiting week provision for PEUC?

Answer: No. There is no waiting period requirement for PEUC.

5. Question: If an individual files a new UC claim and is found monetarily ineligible (*e.g.*, no wages or insufficient wages) for benefits, does the state need to check for any earlier/prior benefit year(s) to determine if the individual may qualify for PEUC?

Answer: Yes. To determine if the individual is an exhaustee who qualifies for PEUC, the state must assess if the individual has any prior benefit year(s) that ended on or after July 1, 2019.

6. Question: May an individual choose the benefit year under which a PEUC claim will be filed? Because of the lengthy reach back for determining whether an individual is an exhaustee, it is possible for the individual to have two different benefit years that ended on or after July 1, 2019. It is also possible for an individual to have one benefit year that ended on or after July 1, 2019 and another benefit year that has not ended, but all UC benefits have been exhausted?

Answer: No. The applicable benefit year is the most recent benefit year.

C. Monetary Eligibility

1. Question: If state law requires a request for redetermination of a monetary determination before an individual can appeal a denial of benefits based upon monetary eligibility decision, would state law apply or would the individual be allowed to file an appeal of a PEUC monetary determination without the individual having to request a redetermination first?

Answer: Section 2107 of the CARES Act provides that the provisions of state law will apply regarding PEUC claim determinations and appeals. If state law requires a

redetermination before an appeal is filed, then the state would apply that provision to the PEUC monetary determination as well.

2. Question: Can an individual receive more than 13 weeks of PEUC?

Answer: It depends. The Maximum Benefit Amount (MBA) is calculated as 13 times the weekly benefit amount that was payable to an individual in his or her benefit year. If an individual were to receive the full PEUC WBA each week, the number of weeks paid would equal 13. However, if an individual has earnings that reduce the WBA payable in a week, then the individual would receive less than the full WBA for that week and therefore could end up receiving more than 13 weeks of PEUC.

3. Question: Will an individual receive the additional FPUC payment for all of the PEUC weeks paid, even if the PEUC payments go beyond the FPUC expiration date?

Answer: No, the additional \$600 per week from FPUC cannot be paid past the FPUC expiration date. Refer to UIPL No. 15-20 for additional guidance on the FPUC program. In states where the week of unemployment ends on a Saturday, the last week that FPUC may be paid is the week ending July 25, 2020. For states where the week of unemployment ends on a Sunday, the last week that FPUC is payable is the week ending July 26, 2020.

4. Question: If the individual becomes eligible for a regular UC claim while collecting PEUC, does the individual get to choose between the two programs?

Answer: No. An individual can only receive PEUC if the individual has no rights and has exhausted all rights to regular UC. If the individual is eligible for regular UC, the individual cannot receive PEUC, even if the WBA on the new UC claim is less than the individual was receiving on the PEUC claim.

5. Question: May an individual have more than one PEUC claim?

Answer: Yes. An individual may establish a claim for PEUC, qualify for a new UC benefit year, exhaust that benefit year, and subsequently qualify for a second PEUC claim based on the new (most recent) benefit year.

6. Question: How does it affect eligibility for PEUC when an individual files a second regular UC claim and does not meet the requalification requirement?

Answer: An individual who has received regular UC during one benefit year must have gone back to work since the beginning of such year in order to qualify for a subsequent and second regular UC claim. This is known as the requalification requirement under Section 3304(a)(7) of the Federal Unemployment Tax Act (FUTA) and prevents individuals from “double dipping” without intervening employment. Where an individual is unable to satisfy the requalification requirement

for a subsequent and second regular UC claim, an individual is considered an exhaustee and may be eligible for PEUC.

D. Work Search/Job Service Registration Requirements

1. Question: Does an individual have to meet the same work search requirements on the PEUC claim as he or she did on the regular UC claim (for example, register for work with the state, make a certain number of job contacts per week, *etc.*)?

Answer: Yes, the CARES Act contains the actively seeking work requirement for PEUC. For purposes of PEUC, actively seeking work means that an individual:

- a) is registered with employment services as required under state provisions;
- b) is engaged in an active search for employment that is appropriate in light of the employment available in the labor market, the individual's skills and capabilities, and includes a number of employer contacts that is consistent with the standards communicated to the individual by the state;
- c) is maintaining a record of work search activities, including employers contacted, method of contact, and date contacted, and when requested; and
- d) when requested, provides such information to the state.

However, as noted in UIPL No. 17-20, any temporary emergency flexibility measures that states have adopted for regular UC as described in UIPL Nos. 10-20 and 13-20 are applicable to the administration of PEUC. Additionally, section 2107(a)(7)(B) of the CARES Act requires that states provide flexibility with respect to the "actively seeking work" requirements for PEUC "in case of individuals unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction."

E. Non-Monetary Issue

1. Question: How does section 4102(b) of the Emergency Unemployment Insurance Stabilization and Access Act (EUISSA) of 2020 apply to claims for PEUC?

Answer: EUISAA allows for an emergency temporary modification of certain provisions under Section 303, SSA, and Section 3304, FUTA. Section 4102(b) of EUISAA states: "Notwithstanding any other law, if a State modifies its unemployment compensation law and policies with respect to work search, waiting week, good cause, or employer experience rating on an emergency temporary basis as needed to respond to the spread of COVID-19, such modifications shall be disregarded for the purposes of applying section 303 of the [SSA] and section 3304 of [FUTA] to such State law." Therefore, if a state adopts temporary flexibilities under EUISSA for UC claims, those flexibilities would also apply to PEUC claims for as long as those flexibilities remain in effect.

2. Question: Does the PEUC program have the same eligibility requirements as a regular UC claim? For example, is an individual required to be able to work, available for work, and actively seeking work in accordance with state law?

Answer: Yes. In general, the terms and conditions of state law that apply to claims for regular UC also apply to claims for PEUC, although PEUC has specific requirements for “actively seeking work” that may be more demanding than state law, as outlined in the answer to Question D. 1. Additionally, Section (a)(7)(B) of the CARES Act requires a state to provide flexibility in meeting the work search requirement in the case of an individual who is unable to search for work because of COVID-19, including because of illness, quarantine, or movement restrictions. A state also has flexibilities regarding work search under EUISAA, as noted above and in UIPL Nos. 10-20 and 13-20.

3. Question: Must a state adjudicate any new separation issue(s) that occurred after the individual exhausted the UC claim?

Answer: Yes. A state must adjudicate separation issues in accordance with state law for all PEUC claims.

4. Question: If an individual is disqualified on a regular UC claim, is that individual eligible for PEUC, if the benefit year has not ended?

Answer: No. The individual would not be considered an exhaustee because there would be a remaining balance on the UC claim and the benefit year has not ended. PEUC follows the same terms and conditions of state law for regular UC. Therefore, the individual would not be eligible for PEUC.

5. Question: If a state assesses penalty weeks for making a false statement and allows an individual to certify for benefits and not be paid in order to “serve” the penalty weeks, may an individual who is otherwise eligible, use PEUC weeks to satisfy this penalty in the same manner?

Answer: Yes. If state law allows regular UC weeks to be used to “serve” the penalty weeks, then PEUC weeks may be used in the same manner to “serve” the penalty weeks and the individual will not receive PEUC for that week.

6. Question: If an individual is ineligible for regular UC because he or she is not able to work or available to work, can the individual receive PEUC?

Answer: No. The individual is not eligible for regular UC under the state law; therefore, the individual is not eligible for PEUC.

7. Question: If an individual is found to have committed fraud on a week for which he or she received PEUC benefits, can the state impose a fraud penalty on the overpaid amount?

Answer: No. The state may not impose fraud penalty provisions on PEUC payments. However, as described in section 2103(e)(1)(A) of the CARES Act, the individual will be ineligible for future PEUC benefits in accordance with the applicable provisions of state UC law. An individual who commits fraud under this program is also subject to criminal prosecution under 18 U.S.C § 1001.

8. Question: Do the same right to appeals and fair hearings under state law apply to claims for PEUC?

Answer: Yes. The same terms and condition of state UC law apply to PEUC appeals.

F. PEUC Intercepts and Overpayment Recovery

1. Question: Are PEUC payments subject to child support intercept?

Answer: Yes. Child support obligations must be deducted from PEUC payments in the same manner and to the same extent as these obligations are deducted from regular UC.

2. Question: What is the order of priority for deductions of overpayment offset, child support, and income taxes?

Answer: The state will follow the same procedures that apply to regular UC. (*See* UIPL 17-95, Change 1).

3. Question: Can a state choose not to offset to repay a PEUC overpayment?

Answer: No. Pursuant to section 2107(e)(3)(A) of the CARES Act, in order to recover an overpayment, a state must offset PEUC or other UC payable under any state or Federal UC law administered by the state agency, or any other assistance or allowance payable with respect to a week of unemployment under any other state or Federal law administered by the state agency. Additionally, if the state has a cross-program offset agreement in place under Section 303(g)(2), SSA (42 U.S.C. § 503(g)(2)), then PEUC payments must be reduced to recover overpayments from any other state and Federal unemployment benefit programs. However, a state may not offset more than 50 percent from the PEUC payment to recover such overpayments.

In addition, while a state must attempt to recover the full amount of the overpayment, a state may limit the amount that will be deducted from each payment as noted on page 4 of UIPL No. 05-13, Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012.

4. Question: How long can a state offset benefits to recover a PEUC overpayment?

Answer: PEUC benefits may only be **offset** from other state and federal UC for three years after the date such individual received the PEUC payment to which he or she was not entitled. After three years, a state may continue to recover PEUC overpayments through means other than benefit offsets, according to state law.

5. Must PEUC be offset to recover overpayments if the state has signed the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA)?

Answer: Yes. States must reduce PEUC payments to recover overpayments from other states if the state has signed the IRORA agreement. However, a state may not offset more than 50 percent from the PEUC payment to recover such overpayments.

6. Question: If state law requires that regular UC is offset at 100 percent to recover an overpayment, does this same provision apply to PEUC benefits?

Answer: No. The state may not offset more than 50 percent from the PEUC payment to recover an overpayment.

7. Question: May the state apply its own state law waiver provisions to PEUC overpayments?

Answer: The state may waive repayment of the PEUC overpayment if the overpayment is without fault and the repayment of the overpayment would be contrary to equity and good conscience, in accordance with the requirement in Section 2107 (e)(2) of the CARES Act.

States must determine waiver requirements on an individual basis and cannot apply “blanket” waivers to a group of individuals.

8. Question: Are states limited to **only** using benefit offsets to recover PEUC overpayments?

Answer: No. Section 2107(e)(3) requires benefit offset as one method of recovery, but states can also use other means to recover PEUC overpayments as allowable under state or Federal law (for example State lottery winnings, wage garnishments, *etc.*).

9. Question: If a state currently offsets 100 percent of UC benefits to repay overpayments, can the state continue to offset these benefits at 100 percent to repay a PEUC overpayment?

Answer: Yes, states may follow state law relating to the percentage of UC benefits that may be offset to recover an overpayment. The 50 percent restriction relates to offsets of PEUC (and FPUC and PUA); it does not restrict offsets from other programs.

10. Question: Does TOP apply to the PEUC program?

Answer: Yes. As discussed in UIPL Nos. 11-11, 12-14, and 02-19, the requirement to use TOP recovery applies to any overpayment that meets the requirements of a “covered” UC debt, regardless of the UC program under which the debt is owed. Thus, in addition to the state UC program overpayments (*e.g.*, regular UC or EB), TOP must be used for recovery of covered debts of federal UC, such as PUA under section 2102 of the CARES Act, FPUC under section 2104 of the CARES Act, and PEUC under section 2107 of the CARES Act.

G. Funding Request

1. Question: Are states required to account for the PEUC and regular UI programs separately?

Answer: Yes. States must track and report administrative funding and time distribution separately.

For administrative funding: Because of the separate appropriation for PEUC administrative funds and the availability of these funds until expended, states must track and report PEUC 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 PEUC program. States are to include any PEUC administrative expenditures and obligations incurred in March 2020 in their June 30, 2020, PEUC ETA 9130 report.

For time distribution: States must charge time used for all PEUC activities to the appropriate UI functional activity codes as outlined in Appendix E to ET Handbook No. 401 5th Edition under the separate PEUC fund ledger; however, states should combine regular and PEUC staff year usage data in Section A of the UI-3 worksheet.

2. Question: Are a state’s administrative costs subject to the Cash Management Improvement Act (CMIA) provisions?

Answer: Yes. Both benefits and administrative costs are subject to the CMIA.

H. Reporting Questions

1. Question: Are PEUC claims excluded from Benefit Accuracy Measurement (BAM) samples?

Answer: Yes. All paid and denied PEUC claims will be excluded from the BAM Paid Claims Accuracy (PCA) and Denied Claims Accuracy (DCA) sampling frames. This is consistent with the policy followed for previous temporary programs.

2. Question: Will PEUC have its own workload function activity on the Resource Justification Model (RJM)?

Answer: No. PEUC will be excluded from any RJM reporting requirements.

3. Question: Should PEUC program activity be reported using the same reports as UI program activity?

Answer: No. States must electronically submit the following reports for the PEUC program: ETA 207, ETA 218, ETA 227, ETA 5130 and ETA 5159 by using separate PEUC entry screens that are available through the UI Required Reports electronic reporting system. PEUC activity should also be reported on the ETA 2112, ETA 539 and UI-3 (see section G(2) of Attachment I to UIPL No. 17-20 for more details, and the revision of G.2.c. described on page 2 of UIPL No. 17-20, Change 1). Unless otherwise noted, definitions of items will follow definitions in the regular program as specified in ETA Handbook 401, 5th Edition. Due dates will be the same as the regular versions of reports.

Reporting will begin with the first reporting period in which the effective date of the PEUC program falls. Reporting for all reports will continue as long as there is activity. However, only reports with non-zero data need to be submitted.