

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
	CORRESPONDENCE SYMBOL OUI/DL
	DATE December 30, 2020

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 9-21

TO: STATE WORKFORCE AGENCIES

FROM: JOHN PALLASCH /s/
Assistant Secretary

SUBJECT: Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) – Summary of Key Unemployment Insurance (UI) Provisions

1. **Purpose.** To advise states of the enactment of the Consolidated Appropriations Act, 2021, specifically Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020, on December 27, 2020, and to provide an overview and instructions for implementing certain UI-related provisions.
2. **Action Requested.** The Department of Labor’s (Department) Employment and Training Administration (ETA) requests State Workforce Administrators provide the information contained in this Unemployment Insurance Program Letter (UIPL) to appropriate program and other staff in state workforce systems as they implement the UI-related provisions that respond to the economic effects of the Coronavirus Disease 2019 (COVID-19) pandemic.
3. **Summary and Background.**
 - a. Summary – On December 27, 2020, the President signed into law the Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A (Continued Assistance Act or Act). This Act amends certain provisions of the Emergency Unemployment Insurance Stabilization and Access Act (EUISAA), set out in Division D of the Families First Coronavirus Response Act (Pub. L. 116-127), the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), and the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (Protecting Nonprofits Act) (Pub. L. 116-151), and creates other new UI-related provisions.

Many of the UI-related provisions in EUISAA and the CARES Act are now extended, with some modifications discussed below, beyond their original expiration date of December 31, 2020, and the Federal Pandemic Unemployment Compensation (FPUC) program, which expired July 31, 2020, is resumed for weeks of unemployment beginning after December 26, 2020, as a \$300 supplement. These amendments are discussed further in Section 4 of this UIPL.

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

The Continued Assistance Act also makes additional changes beyond the programs and provisions provided for in EUISAA and the CARES Act. Section 251 requires that states provide a method for employers to report to the state agency individuals who refuse to return to work or to accept an offer of suitable work and that states notify said individuals who are reported under the relevant state laws. This is discussed further in Section 4.d. of this UIPL. Section 261 authorizes the Mixed Earners Unemployment Compensation (MEUC) program for states that elect to participate. MEUC provides \$100 each week, in addition to FPUC, to individuals with \$5,000 or more in self-employment income in the previous tax year who are receiving unemployment benefits from a program other than Pandemic Unemployment Assistance (PUA). This is discussed further in Section 4.b.iii. of this UIPL.

Below is a summary of provisions in the Continued Assistance Act that are not discussed in this UIPL.

Section 262 of the Continued Assistance Act provides that states may waive overpayments under the Lost Wages Assistance (LWA) program when the individual is not at fault for the payment and repayment would be contrary to equity and good conscience. For additional information about this provision, states are referred to the Federal Emergency Management Agency (FEMA). States may direct inquiries about this to fema-lwa-reporting@fema.dhs.gov.

Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs. This change primarily impacts claims in the Commonwealth of the Northern Mariana Islands and will be discussed in more detail in a forthcoming Change to UIPL No. 16-20.

Section 266 of the Continued Assistance Act provides that states which have triggered “off” of an Extended Benefits (EB) period and later trigger back “on” may choose to disregard the 13-week mandatory “off” period described in Section 203(b)(1)(B) of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) for weeks between November 1, 2020 and December 31, 2021, if state law permits. This will be discussed in more detail in a forthcoming Change to UIPL No. 24-20.

Attachment I provides an updated summary of the coordination of unemployment benefit programs, including a program progression chart. Attachment II lists important dates within the Continued Assistance Act. Attachment III provides sample notification language that states may use to notify individuals about changes to program dates and amounts resulting from the Continued Assistance Act. Attachment IV provides instructions for states to complete the SF-424 for implementation costs.

- b. Background – On March 18, 2020, the President signed the Families First Coronavirus Response Act (Pub. L. 116-127), which includes EUISAA in Division D. EUISAA provides: 1) emergency administrative grants to states; 2) emergency flexibilities to states

related to temporarily modifying certain aspects of their unemployment compensation (UC) laws; 3) a short-term waiver of Title XII (42 U.S.C. § 1321 et al.) interest payments due and interest accrual on Title XII advances to states; and 4) full federal funding, under certain circumstances, of EB. The latter two provisions were set to expire on December 31, 2020. *See* UIPL No 13-20, published on March 22, 2020.

On March 27, 2020, the President signed the CARES Act (Pub. L. 113-136), which includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. The UI provisions in the CARES Act include creation of three new UC programs: PUA, FPUC, and PEUC. FPUC expired on July 31, 2020, and PUA and PEUC were set to expire on December 31, 2020, prior to the passage of the Continued Assistance Act.

Additionally, the CARES Act provided for emergency unemployment relief for governmental entities and nonprofit organizations, temporary full federal funding of the first week of compensable regular UC for states with no waiting week, as well as temporary financing of short-time compensation (STC) payments and federal STC benefit costs—all of which were set to expire on December 31, 2020. The CARES Act also amended Section 4102(b), EUISAA, by providing states with temporary emergency flexibility of the merit staffing provision as needed in response to the spread of COVID-19 through December 31, 2020. For general information about the UI provisions in the CARES Act, see UIPL No. 14-20, published on April 2, 2020, and UIPL No. 14-20, Change 1, published on August 12, 2020.

On August 3, 2020, the President signed the Protecting Nonprofits Act, which further amended Section 903(i) of the Social Security Act (SSA), which was created under Section 2103 of the CARES Act related to emergency unemployment relief for governmental entities and nonprofit organizations.

Importance of Program Integrity. Addressing improper payments and fraud is a top priority for the Department and the entire UI system. It is critical that states implement UI programs and provisions to ensure that payments are being made to eligible individuals and that states have aggressive strategies and tools in place to prevent, detect, and recover fraudulent payments, with a particular emphasis on imposter fraud by claimants using false identities.

The programs and provisions within the Continued Assistance Act, EUISAA, and the CARES Act operate in tandem with the fundamental eligibility requirements of the Federal-State UI program. These requirements include that an individual file certifications with respect to each week of unemployment that is paid and that an individual be able to work and available for work except as specifically provided for in statute. In addition, the Continued Assistance Act includes new program integrity requirements for the PUA and PEUC programs with which states must comply.

Some states remain in the midst of managing extraordinary workloads due to the effects of the spread of COVID-19. During this time, there is a heightened need for states to maintain a steadfast focus on UI functions and activities that ensure program integrity

and the prevention and detection of improper payments and fraud across all programs operated within the UI system.

UIPL No. 23-20, published on May 11, 2020, discusses program integrity for the UI system. UIPL No. 28-20, published on August 31, 2020, provides states with funding to assist with efforts to prevent and detect fraud and identity theft and recover fraud overpayments in the PUA and PEUC programs.

States play a fundamental role in ensuring the integrity of the UI system. While states have been provided some flexibilities as a result of the COVID-19 pandemic, those flexibilities are generally limited to emergency temporary actions as needed to respond to the spread of COVID-19. States must ensure that individuals only receive benefits in accordance with federal and state law.

ETA strongly encourages states to utilize the tools, resources, and services of the UI Integrity Center, funded by the Department and operated in partnership with the National Association of State Workforce Agencies. One of the key assets to support addressing fraud is the Integrity Data Hub (IDH), which includes a variety of data sets to prevent and detect fraud based on identity theft at the time of application, including an identity verification solution. ETA also encourages states to consult with the UI Integrity Center on data analytics and to prioritize IDH hits, as well as on other tools and solutions available through the private sector that complement the IDH. In UIPL No. 28-20, the Department explained its expectation that states connect to the IDH no later than March 31, 2021 and encouraged states to use their share of the funding provided through that UIPL to support IDH connection as soon as possible. There is also a range of other tools on the market that states should consider when combating fraud and ensuring program integrity.

4. Guidance. Below is a summary of the programmatic changes included in the Continued Assistance Act.

- a. **Amendments to EUISAA.** The Continued Assistance Act extends certain provisions of EUISAA as set out below.
 - i. *Emergency state staffing flexibilities* (Section 205 of the Continued Assistance Act). Authority for temporary emergency staffing flexibilities in response to the spread of COVID-19 is extended to March 14, 2021. With this change, refer to Section 4.d., of UIPL No. 14-20 for additional details.
 - ii. *Temporary assistance for states with advances* (Section 221 of the Continued Assistance Act). The period of time during which interest will be deemed paid and no interest will accrue on state advances from the Federal Unemployment Account (FUA) is extended to March 14, 2021. With this change, see UIPL No. 13-20.
 - iii. *Full federal funding of EB* (Section 222 of the Continued Assistance Act). Guidance about these provisions will be provided as a Change to UIPL No. 24-20.

- Extension of Full Federal Funding Period for Sharable Costs. Full federal funding of sharable regular compensation and sharable extended compensation for eligible states is extended through weeks of unemployment beginning before March 14, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which full federal funding is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which full federal funding is available is the week ending March 14, 2021.
- Extension of Full Federal Funding Period for the First Week of EB in States without a Waiting Week. Temporary federal matching for the first week of EB for states with no waiting week is extended to weeks of unemployment beginning before March 14, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which this funding is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which this funding is available is the week ending March 14, 2021.

Note that this is a separate provision from the full federal funding of the first week of compensable regular UC, which is provided for in the CARES Act and discussed in more detail in Section 4.b.iv. of this UIPL.

The temporary emergency flexibilities provided for in Section 4102(b), EUISAA regarding waiting week, work search, good cause, and experience rating, do not change with the enactment of the Continued Assistance Act. States continue to have flexibility in applying these provisions on a temporary emergency basis as needed to respond to the spread of COVID-19. *See* UIPL No. 13-20 and its Changes.

- b. **Amendments to the CARES Act.** The Continued Assistance Act provides for the extension and modification of certain CARES Act provisions, as set out below.

The Agreement Implementing the Relief for Workers Affected by Coronavirus Act that was signed by each state in March, 2020 remains in effect with the modifications and extensions of these updated provisions. As provided in paragraph I. of the Agreement:

The [insert state name] State Workforce Agency, hereinafter referred to as the “Agency,” will make payments of benefits in accordance with the provisions of the Act identified in paragraph XIV [the CARES Act], and any future amendments thereto (which are incorporated herein by reference), and will cooperate with the U.S. Department of Labor (Department of Labor), and with other state agencies in making such payments.

The Department interprets the Agreement to incorporate amendments to the CARES Act made by the Continued Assistance Act. The Department does not view having a new

agreement or addendums as necessary in order to implement the statutory changes because amendments are incorporated by reference, except in the case where a state decides to administer the MEUC program. States choosing to administer the MEUC program must provide a signed addendum to the CARES Act FPUC Agreement to the Department. States deciding to not administer the program must also communicate that to the Department. States are asked to take one of these actions no later than January 2, 2021.

Under the Agreement already in place, states are required to operate the programs as required by the amendments and the Department's guidance.

As set forth in Section XI of the Agreement, a state may terminate specific provisions within the agreement listed in Section XIV or terminate the agreement itself with thirty days' written notice if it chooses to no longer administer such provisions.

- i. *PUA* (multiple sections in the Continued Assistance Act). A summary of the amendments to the PUA program is provided below. Guidance about these provisions will be provided as a Change to UIPL No. 16-20.

Extension of Program (Section 201(a) of the Continued Assistance Act). The end of the period of applicability for the PUA program is extended, without interruption, to weeks of unemployment ending on or before March 14, 2021. In states where the week of unemployment ends on a Saturday, the last payable week of PUA is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last payable week of PUA is the week ending March 14, 2021.

- New Phaseout Period (Section 201(a) of the Continued Assistance Act). Individuals that are receiving PUA as of the end of the program, either week ending March 13 or 14 as outlined above, and have not yet exhausted their PUA entitlement may continue to collect PUA for any week in which they have remaining entitlement and are otherwise eligible. However, no PUA is payable for any week beginning after April 5, 2021. Individuals are identified as "receiving" PUA if they are eligible for the payment of PUA with respect to week ending March 13, 2021 (or March 14, 2021 for states with a Sunday week-ending date).

In states where the week of unemployment ends on a Saturday, the last payable week of PUA for individuals who are eligible to participate in the phaseout period is the week ending April 10, 2021. In states where the week of unemployment ends on a Sunday, the last payable week of PUA for individuals qualified to participate in the phaseout period is the week ending April 11, 2021.

- Additional Weeks Available (Section 201(b) of the Continued Assistance Act). The maximum number of weeks of PUA benefits is increased from 39

weeks to 50 weeks. The number of weeks available continues to be reduced by any weeks of regular UC and EB that the individual receives with respect to the Pandemic Assistance Period. Individuals may only collect these additional 11 weeks of benefits with respect to weeks of unemployment beginning on or after December 27, 2020.

In states where the week of unemployment ends on a Saturday, the first week for which these additional 11 weeks of benefits may be collected is the week ending January 2, 2021. In states where the week of unemployment ends on a Sunday, the first week for which these additional 11 weeks of benefits may be collected is the week ending January 3, 2021.

- Establishes the Appeals Process in Statute (Section 201(c) of the Continued Assistance Act). This provision establishes the Department’s previous guidance from Section 13.g. of Attachment I to UIPL No. 16-20 in statute. States must continue to process PUA appeals in the same manner and to the same extent as the state would conduct appeals of determinations or redeterminations regarding rights to regular UC. Additionally, with respect to any appeal filed in 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, appeals must be carried out by the applicable entity in the state in the same manner and to the same extent as those conducted under the UC law of Hawaii. Any decision issued on appeal or review before the date of enactment (December 27, 2020) is not affected by this provision.
- New Authority to Waive Overpayments (Section 201(d) of the Continued Assistance Act). States are provided the authority to waive PUA overpayments only when the individual is not at fault for the payment and repayment would be contrary to equity and good conscience. This waiver authority applies to improper payments made at any time since the PUA program began.
- New Hold Harmless for Proper Administration (Section 201(e) of the Continued Assistance Act). Generally, an individual must have exhausted all entitlement to regular UC, PEUC, and EB before filing for PUA. However, Section 201(e) of the Continued Assistance Act provides a “hold harmless” provision for an individual who previously exhausted PEUC and is now receiving PUA, but, because of Section 206(b) of the Continued Assistance Act, becomes eligible for additional amounts of PEUC beginning on or after December 27, 2020. States may continue paying PUA to an individual currently receiving PUA who is newly eligible to receive PEUC due to the additional weeks of PEUC. This flexibility is allowed for an appropriate period of time as determined by the Secretary of Labor.

The Department considers four weeks of unemployment commencing after the date of enactment of the Continued Assistance Act (January 23, 2021) an appropriate period of time for states to implement the additional amounts of PEUC and move an individual from his or her PUA claim back to PEUC. During this time, an individual may remain eligible for PUA notwithstanding the fact that the individual now has additional entitlement to PEUC. Recognizing the unique circumstances states face and the number and complexity of UI programmatic changes that states must swiftly implement, should a state determine that it will not be able to transition individuals from PUA back to PEUC in that timeframe, the state must contact the appropriate ETA Regional Office to determine the earliest date that the state will be able to implement this transition.

Individuals may not receive payments under both the PUA and PEUC programs for the same week of unemployment. Any PUA payments made with respect to weeks of unemployment during this implementation period do not need to be moved from the PUA to PEUC claim. This will not affect the individual's entitlement amounts to the additional PEUC benefits. Should the individual later exhaust PEUC and resume filing against his or her PUA claim, such weeks of PUA will be deducted from the individual's overall PUA entitlement.

- New Limitations on Backdating (Section 201(f) of the Continued Assistance Act). As discussed in Question 4 of Attachment I to UIPL No. 16-20, Change 1, individuals filing for PUA must have their claim backdated to the first week during the Pandemic Assistance Period that the individual was unemployed, partially unemployed, or unable or unavailable to work because of a COVID-19 related reason listed in Section 2102(a)(3)(A)(ii)(I) of the CARES Act. However, first applications for PUA that are filed after December 27, 2020 may not be backdated earlier than December 1, 2020.

In states where the week of unemployment ends on a Saturday, the earliest effective date for such claims is December 6, 2020. In states where the week of unemployment ends on a Sunday, the earliest effective date for such claims is December 7, 2020.

- Technical Change (Section 209 of the Continued Assistance Act). The text of Section 2102(h) of the CARES Act is updated to reference part 625, rather than section 625, of Title 20 of the Code of Federal Regulations. This statutory change does not have an operational effect on program administration.
- New Requirement for Individuals to Submit Documentation Substantiating Employment or Self-Employment (Section 241 of the Continued Assistance Act). Any individual that receives a payment of PUA after the date of enactment (December 27, 2020) is required to provide documentation

substantiating employment or self-employment, or the planned beginning of employment or self-employment. The deadline for providing such documentation depends on when the individual filed the initial PUA claim.

- *Filing New Applications for PUA.* Individuals filing a new PUA application on or after January 31, 2021 (regardless of whether the claim is backdated), are required to provide documentation within 21 days of application or the date the individual is directed to submit the documentation by the State Agency, whichever is later. The deadline may be extended if the individual has shown good cause under state UC law within 21 days.
- *Filing Continued Claims for PUA.* Individuals who applied for PUA before January 31, 2021 and receive a payment of PUA on or after December 27, 2020 (regardless of which week ending date is being paid), are required to provide documentation substantiating employment or self-employment, or the planned beginning of employment or self-employment, within 90 days of application or when directed to submit the documentation by the State Agency, whichever is later. The deadline may be extended if the individual has shown good cause under state UC law.
- New Requirement for States to Verify Identity of Applicants for PUA (Section 242 of the Continued Assistance Act). For states to have an adequate system for administering the PUA program, states must include procedures for identity verification or validation and for timely payment, to the extent reasonable and practicable, for claims filed on or after January 26, 2021.
- Establishes the Requirement for Individuals to Recertify Eligibility Every Week in Statute (Section 263 of the Continued Assistance Act). Individuals must provide a self-certification that their unemployment, partial unemployment, or inability or unavailability to work is specifically attributable to one or more of the COVID-19 related reasons specified in section 2102(a)(3)(A)(ii)(I)(aa) through (kk) of the CARES Act, and must identify that specific reason, for each week that PUA is claimed. This applies with respect to weeks beginning on or after January 26, 2021.

In states where the week of unemployment ends on a Saturday, the first applicable week is week ending February 6, 2021. In states where the week of unemployment ends on a Sunday, the first applicable week is February 7, 2021.

Additionally, in the case of states that made a good faith effort to implement the PUA program for weeks prior to the effective date of this provision, an individual will not be denied benefits for prior weeks solely for failing to submit a weekly self-certification.

ii. *Relief for governmental entities and nonprofit organizations.* The Continued Assistance Act makes the following changes:

- Extension of Federal Funding Period (Section 202 of the Continued Assistance Act). The applicable period for emergency unemployment relief for governmental entities and nonprofit organizations, as created under Section 2103 of the CARES, amended by the Protecting Nonprofits Act, and codified at Section 903(i), SSA, is extended to weeks of unemployment ending on or before March 14, 2021.

In states where the week of unemployment ends on a Saturday, the last week of unemployment for which funding is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which funding is available is the week ending March 14, 2021.

- Extend Application of Section 903(i), SSA, to the John. F. Kennedy Center (Section 264 of the Continued Assistance Act). Application of emergency unemployment relief under Section 903(i), SSA, is extended to also include services attributable to entities created by Pub. L. 85-874, which includes the John F. Kennedy Center, which is a federal trust instrumentality. This is retroactively effective to weeks of unemployment beginning after March 12, 2020 (week ending March 21, 2020 for states with a Saturday week ending date and week ending March 22, 2020 for states with a Sunday week ending date). States can identify affected benefit costs using the Federal Identification Code (FIC) 619.

With these changes, refer to UIPL No. 18-20, Change 1, published on August 12, 2020, for additional details.

iii. *FPUC* (multiple sections in the Continued Assistance Act). A summary of the amendments to the FPUC program is provided below. Guidance about these provisions will be provided as a Change to UIPL No. 15-20.

- Reauthorization of Program and Modification of Weekly Benefit Amount (WBA) (Section 203 of the Continued Assistance Act). The FPUC program, which expired July 31, 2020, is reauthorized and modified to provide \$300 per week in supplemental benefits for weeks of unemployment beginning after December 26, 2020, and ending on or before March 14, 2021. FPUC is not payable with respect to any week during the gap in applicability, that is, weeks of unemployment ending after July 31, 2020 through weeks of unemployment ending on or before December 26, 2020.

In states with an Agreement to administer the FPUC program where the week of unemployment ends on a Saturday, the first week for which FPUC must be paid at the \$300 amount is the week ending January 2, 2021. The last week of

unemployment for which FPUC must be paid is week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the first week for which FPUC must be paid at the \$300 amount is week ending January 3, 2021. The last week of unemployment for which FPUC must be paid is week ending March 14, 2021. Note that although the PUA and PEUC programs now have a phaseout period after they expire on March 14, 2021, FPUC is not payable with respect to weeks of unemployment during such phaseout period.

- Technical Change (Section 203 of the Continued Assistance Act). The inclusion of Short-Time Compensation (STC) is codified under the definition of “unemployment benefits.” This statutory change does not have an operational effect on program administration, since prior Department guidance included STC among the UI programs for which an individual’s benefit amount is supplemented by FPUC.
- New Provision for Mixed Earners (Section 261 of the Continued Assistance Act). Within Section 2104 of the CARES Act, which authorizes FPUC, the Continued Assistance Act adds authorization for the MEUC program, which is an optional program for states to administer. The MEUC program provides certain individuals with an additional \$100 payment each week, in addition to the FPUC payment. Eligible individuals must: i) have received at least \$5,000 of self-employment income in the most recent taxable year prior to the individual’s application for regular UC, ii) be receiving a UI benefit (other than PUA) for which FPUC is payable, and iii) submit documentation substantiating their self-employment income. This additional payment does not apply to individuals collecting PUA.

MEUC is payable beginning with weeks of unemployment no earlier than week ending January 2, 2021 (January 3, 2021 for states with a Sunday week ending date) through the week of unemployment ending on or before March 14, 2021.

- iv. *Full federal funding of the first week of compensable regular UC* (Section 204 of the Continued Assistance Act). The Continued Assistance Act makes the following changes:

- Extension of Federal Funding Period. For states without a waiting week provision in their state UC law, reimbursement of the first week of regular UC is available through weeks of unemployment ending on or before March 14, 2021.

In states where the week of unemployment ends on a Saturday, the last week of unemployment for which reimbursement is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which reimbursement is available is the week ending March 14, 2021.

- Modification of Federal Funding Level. The amount of federal funding for reimbursement under this provision decreases from 100 percent to 50 percent for weeks of unemployment ending after December 31, 2020.

In states where the week of unemployment ends on a Saturday, the last week of unemployment for which 100 percent funding is available is the week ending December 26, 2020. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which 100 percent funding is available is the week ending December 27, 2020.

Subject to these changes, refer to UIPL No. 20-20, published on April 30, 2020, for additional details.

- v. *PEUC* (multiple sections in the Continued Assistance Act). A summary of the amendments to the PEUC program is provided below. Guidance about these provisions will be provided as a Change to UIPL No. 17-20.

- Extension of Program (Section 206(a) of the Continued Assistance Act). The end of the period of applicability for the PEUC program is extended, without interruption, to weeks of unemployment ending on or before March 14, 2021. In states where the week of unemployment ends on a Saturday, the last payable week of PEUC is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last payable week of PEUC is the week ending March 14, 2021.
- New Phaseout Period (Section 206(a) of the Continued Assistance Act). Individuals that are receiving PEUC as of the end of the program and have not yet exhausted their PEUC entitlement may continue to collect PEUC if they have remaining entitlement and are otherwise eligible to receive these benefits. However, no PEUC is payable for any week beginning after April 5, 2021. Individuals are identified as “receiving” PEUC if they are eligible for the payment of PEUC with respect to week ending March 13, 2021 (or March 14, 2021 for states with a Sunday week-ending date).

In states where the week of unemployment ends on a Saturday, the last payable week of PEUC for individuals who are eligible to participate in the phaseout period is the week ending April 10, 2021. In states where the week of unemployment ends on a Sunday, the last payable week of PEUC for individuals qualified to participate in the phaseout period is the week ending April 11, 2021.

- Additional Weeks Available (Section 206(b) of the Continued Assistance Act). The maximum amount of PEUC benefits is increased from 13 times the individual’s average WBA to 24 times the individual’s average WBA. Individuals may only collect the additional amount, 11 times their average

WBA, with respect to weeks of unemployment beginning on or after December 27, 2020.

In states where the week of unemployment ends on a Saturday, the first week for which these additional benefits may be collected is the week ending January 2, 2021. In states where the week of unemployment ends on a Sunday, the first week for which these additional benefits may be collected is the week ending January 3, 2021.

- New Option for a State to Allow an Individual to Continue Collecting PEUC When Eligible for a New Regular UC Claim (Section 206(c) of the Continued Assistance Act). The PEUC requirement that individuals must exhaust all regular UC entitlement in order to be eligible for PEUC may be modified by states for individuals that meet certain requirements. The Continued Assistance Act provides options for the states to elect to allow continued payment of PEUC when an individual qualifies for regular UC in a subsequent benefit year if the individual's previous benefit year expires after December 27, 2020 and the regular UC WBA payable on that subsequent benefit year is at least \$25 lower than the PEUC WBA and certain other conditions are met. For states where the week of unemployment ends on a Saturday, this applies to claims with a benefit year expiration date of January 2, 2021 or later. For states where the week of unemployment ends on a Sunday, this applies to claims with a benefit year expiration date of January 3, 2021 or later.
 - New Requirement for Individuals Receiving EB to Exhaust EB before Collecting Additional Weeks of PEUC (Section 206(c) of the Continued Assistance Act). The Coordination Rule found in Section 2107(a)(5) of the CARES Act has changed. If an individual previously exhausted PEUC and began receiving EB, he or she must exhaust EB before being eligible to receive the additional amount of PEUC now available under the Continued Assistance Act.
 - Related EB Provision (Section 206(c) of the Continued Assistance Act): The application of Section 203(c) of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) to PEUC exhaustees has changed. If permitted under state law, as long as the state is in an EB period after the date the individual exhausts PEUC, even if the individual's benefit year has expired, the individual may still be eligible for EB. Guidance about this provision will be provided as a Change to UIPL No. 24-20.
- vi. *Temporary financing of STC payments* (Sections 207 and 208 of the Continued Assistance Act). For states operating an STC program, reimbursement of STC payments has been extended to include weeks of unemployment ending on or before March 14, 2021.

In states where the week of unemployment ends on a Saturday, the last week of unemployment for which reimbursement is available is the week ending March 13, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which reimbursement is available is the week ending March 14, 2021.

With this change, for states with an existing STC program in state law, refer to UIPL No. 21-20, published May 3, 2020, for additional details.

States are reminded that the CARES Act also provides states with grant funds to implement or improve administration of an STC program and to promote and enroll employers. The deadline to apply for these grants has not changed. It is December 31, 2023. *See* UIPL No. 22-20, published May 10, 2020.

- c. **Return to Work Reporting Requirement.** Section 251 of the Continued Assistance Act creates a new Section 2117 within the CARES Act and includes three requirements that apply to all states, territories, and freely associated states participating in an agreement under any of the CARES Act UI-related provisions.

These requirements take effect 30 days from the date of enactment, which is January 26, 2021. Although under the Act they must only remain in place during any period in which the state's agreement is in effect, we strongly encourage states to ensure there are permanent mechanisms in place to track work refusal accusations.

- i. *Process for addressing work refusals.* States must have a method to address circumstances in which an individual refuses to return to work or to accept an offer of suitable work without good cause. The key requirement is that states have a procedure for how reports are received, evaluated/adjudicated, and resolved to determine the impact on an individual's continued eligibility for unemployment benefits.
- ii. *Reporting method for employers.* States must provide a reporting method for employers to notify the state agency when an individual refuses an offer of employment. Examples of this reporting method include, but are not limited to, a phone line, email address, or online portal by which employers can notify the state agency. Nothing in the Act requires employers to report work refusals. The Act requires that states have a method allowing employers to submit such information.
- iii. *Notification to individuals.* States must provide a plain-language notice to claimants who refuse to return to work or to accept an offer of suitable work without good cause. Such notice must include the following information.
 - Summary of state UC laws regarding an individual's return to work;
 - Statement about the individual's rights to refuse to return to work or to refuse suitable work;

- Explanation of what constitutes suitable work under state UC law;
- Explanation of the individual's right to refuse work that poses a risk to the individual's health or safety (if permissible and as defined under state law); and
- Instructions for contesting a denial if the denial is due to a report by an employer that the individual refused to return to work or refused suitable work.

State laws regarding the definition of suitable work will vary, as will state's application of good cause for refusing an offer of work. Additionally, a state may choose to exercise temporary emergency flexibility in its application of good cause, as provided for under Section 4102(b), EUISAA, in response to the spread of COVID-19. As such, each state has flexibility on the design of this notification, provided such notice includes the specific information identified above.

States must include this notification at the time an adjudication issue for refusing work is created. This may be accomplished through a stand-alone notice or as part of the fact-finding questionnaire. The distribution method should be consistent with other correspondence provided to the claimant by the state, which may include mail, email, or through the individual's online web portal.

States may, as a best practice, also include this information in the Benefit Rights Interview (BRI) or Claimant Handbook, as messaging on an automated phone system, or as messaging on the state's UI website.

Additionally, upon resolution of the adjudication issue for refusing work, states are still required to include specific information on the written determination, including a summary of the material facts, reasoning and conclusion of law, and the individual's appeal rights (refer to pages V-16 and V-17 of ET Handbook 301, 5th Edition). States may, as a best practice, also include the information described in Section 251 of the Continued Assistance Act in the body of the written determination, as an attachment to the written determination, or as a separate notice.

This notification requirement does not change the existing adjudication standards that apply when assessing an individual's eligibility after learning that he or she refused to return to work or to accept an offer of work. These adjudication standards are found in the Claims Determinations Standards (20 C.F.R. Part 614, Appendix B), ET Handbook No. 301, 5th Edition, *UI Performs: Benefits Timeliness and Quality Nonmonetary Determinations Quality Review*, or elsewhere in Departmental guidance.

- d. **Administrative Costs for Implementation of Changes.** The Department will make available \$500,000 to each state for the implementation of the provisions associated with the PUA, FPUC, and PEUC amendments cited above. The funding will be added to the

state's COVID Pandemic grant in the following fashion: PUA administration +\$250,000, FPUC administration +\$100,000, and PEUC administration +\$150,000. In addition, for states electing to provide MEUC, \$150,000 will be provided as startup costs. If states exhaust resources before implementation changes are completed, state may submit supplemental budget requests for additional administrative funds for one or more of the programs.

States are required to submit a signed SF-424 form for each funding allotment (i.e., SF-424 for the PUA; SF-424 for the FPUC; SF-424 for the PEUC; and a SF-424 for MEUC if the state is participating in the MEUC program). ETA encourages states to submit these forms as soon as possible, but no later than **February 1, 2021**, by electronic submission to the National Office at covid-19@dol.gov, with a copy to the appropriate ETA Regional Office. For additional information on completing the SF-424, please refer to Attachment IV, Instructions for Completing the SF-424.

Additionally, please note that grantees that receive supplemental grant awards for implementing these program changes must submit a quarterly progress report using the form ETA 9178-P to the appropriate ETA Regional Office. The form ETA 9178-P requires the grantee to provide ETA with narrative updates on supplemental grant activities. Attachment II and III to UIPL No. 16-20, Change 1 contains form ETA 9178-P and instructions for completing the form ETA 9178-P and timeline for the submission of these status reports.

5. Inquiries. Please direct inquiries to covid-19@dol.gov with a copy to the appropriate ETA Regional Office.

6. References.

- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020;
- Protecting Nonprofits from Catastrophic Case Flow Strain Act of 2020 (Pub. L. 116-151);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act;
- Families First Coronavirus Response Act (Pub. L. 116-127), including Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA);
- Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) (26 U.S.C. §3304 note);
- Title XII, Social Security Act (42 U.S.C. §1321 et al.);
- 20 C.F.R. Part 603, Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information;
- 20 C.F.R. Part 614, Appendix B, Standard for Claim Determination – Separation Information;
- 20 C.F.R. Part 625, Disaster Unemployment Assistance;

- UIPL 28-20, *Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, issued August 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8044;
- UIPL No. 24-20, *Temporary Changes to the Federal-State Extended Benefits (EB) Program in Response to the Economic Impacts of the Coronavirus Disease 2019 (COVID-19) Pandemic Emergency*, issued May 14, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7132;
- UIPL No. 23-20, *Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, issued May 11, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4621;
- UIPL No. 22-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Grants*, issued May 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6220;
- UIPL No. 21-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments*, issued May 3, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9622;
- UIPL No. 20-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Operating, Financial, and Reporting Instructions for Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week*, issued April 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=6324;
- UIPL No. 18-20, Change 1, *Amendments to the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes*, issued August 12, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8149;
- UIPL No. 17-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Emergency Unemployment Compensation (PEUC) Program: Questions and Answers, and Revised Reporting Instructions for the PEUC ETA 227*, issued May 13, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8689;
- UIPL No. 17-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions*, issued April 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8452;
- UIPL No. 16-20, Change 3, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) in the Context of School Systems Reopening*, issued August 27, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3849;

- UIPL No. 16-20, Change 2, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Additional Questions and Answers*, issued July 21, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5479;
- UIPL No. 16-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Reporting Instructions and Questions and Answers*, issued April 27, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899;
- UIPL No. 16-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions*, issued April 05, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628;
- UIPL No. 15-20, Change 2, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – New Data Collection Instrument and Revised Reporting Instructions for Federal Pandemic Unemployment Compensation (FPUC)*, issued June 15, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7785;
- UIPL No. 15-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reporting Instructions and Questions and Answers*, issued May 9, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3946;
- UIPL No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, issued April 14, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297;
- UIPL No. 14-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Questions and Answers*, issued August 12, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3791;
- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390;
- UIPL No. 13-20, Change 1, *Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) - Reporting Instructions, Modification to Emergency Administrative Grants Application Requirement, and Questions and Answers*, issued May 4, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5374;
- UIPL No. 13-20, *Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020*, issued March 22, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634;
- UIPL No. 03-20, *Minimum Disaster Unemployment Assistance (DUA) Weekly Benefit Amount: January 1 – March 31, 2020*, issued December 12, 2019, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3675; and
- ET Handbook No. 301, 5th Edition, *Benefits Timeliness and Quality Nonmonetary Determinations Quality Review*.

7. **Attachment(s).**

- **Attachment I:** Coordination of Unemployment Benefit Programs, including Program Progression Chart.
- **Attachment II:** Important Dates for the Continued Assistance for Unemployed Workers Act of 2020.
- **Attachment III:** Sample Notification Language for Claimants.
- **Attachment IV:** Instructions for Completing the SF-424.