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ResearchReport

OLR Backgrounder: Unemployment Insurance Provisions in the Federal CARES Act

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Issue

This report summarizes the main provisions on unemployment insurance benefits in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

Summary

The federal CARES Act, among other things, contains several provisions that temporarily expand unemployment benefits for workers who cannot work because of the COVID-19 public health emergency. Most significantly, the act establishes three new federally funded programs to temporarily provide expanded unemployment benefits. They are the:

1. Pandemic Unemployment Assistance (PUA) program to provide up to 39 weeks of unemployment benefits, through the end of 2020, to individuals who are not typically eligible for regular unemployment benefits (e.g., the self-employed, independent contractors, and "gig economy" workers);

2. Pandemic Emergency Unemployment Compensation (PEUC) program to provide an additional 13 weeks of unemployment benefits, through the end of 2020, to claimants who have exhausted their regular benefits (which typically occurs after they received benefits for 26 weeks); and

3. Federal Pandemic Unemployment Compensation (FPUC) program to provide an additional $600 in weekly benefits, through July 31, 2020, to claimants eligible for regular, PUA, or PEUC, benefits.

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In addition, the act provides states with 100% federal funding for (1) their claimants' first week of unemployment benefits and (2) the unemployment benefits paid under the state's short-time compensation (i.e., shared work) program. It also provides 50% federal funding for unemployment benefits paid to employees of "reimbursing" employers, such as the state and municipalities.

The act also gives state unemployment systems greater flexibility in their personnel practices by temporarily allowing them to take steps such as using temporary staff and rehiring retirees.

Pandemic Unemployment Assistance (§ 2102)

Benefit Eligibility

The act establishes a new pandemic unemployment assistance (PUA) benefit for "covered individuals" who are ineligible for regular or extended unemployment benefits, including those who have exhausted their rights to these benefits or the PEUC benefits established by the act (see below). The PUA benefit is not available to individuals who can telework or are receiving paid sick leave or other paid leave benefits.

Covered individuals can qualify in one of two ways. In the first, they must self-certify that they are able and available to work, but they are unemployed, partially employed, or unable or unavailable to work due to one of the following reasons:

1. they have been diagnosed with COVID-19 or are experiencing COVID-19 symptoms and seeking a medical diagnosis;
2. a member of their household has been diagnosed with COVID-19;
3. they are caring for a family or household member diagnosed with COVID-19;
4. a child for whom they have primary caregiving responsibility cannot attend school or another facility that is closed as a direct result of the COVID-19 public health emergency, and the school or facility is required for the individual to work;
5. they cannot reach their place of employment because a (a) quarantine was imposed as a direct result of the COVID-19 public health emergency or (b) health care provider advised them to self-quarantine due to concerns related to COVID-19;
6. they were scheduled to begin employment and do not have a job or cannot reach the job as a direct result of the COVID-19 public health emergency;
7. they have become the breadwinner or major support for a household because the head of the household died as a direct result of COVID-19;
8. they must quit their job as a direct result of COVID-19;

9. their place of employment closed as a direct result of the COVID-19 public health emergency; or

10. they meet any additional criteria the labor secretary establishes.

In the second, they must self-certify that they are (1) self-employed (including independent contractors and "gig" workers), (2) seeking part-time employment, (3) do not have a sufficient work history, or (4) otherwise would not qualify for regular unemployment or extended benefits under state or federal law or the new PEUC. They must also certify that they are unemployed, partially employed, or unable or unavailable to work due to one of the 10 reasons listed above.

The PUA benefit is available for weeks of unemployment, partial unemployment, or inability to work that begin between January 27, 2020, and December 31, 2020.

Benefit Amount and Duration

The act generally requires a covered individual's weekly PUA benefit to be calculated using the same method the individual's state uses to determine regular unemployment benefits, but it cannot be less than 50% of the average regular unemployment benefit. It must be correspondingly increased with any subsequent weekly benefit increases.

The act limits the duration of a covered individual's PUA benefits to 39 weeks, including any weeks that the individual received regular or extended unemployment benefits. However, if the maximum duration of extended benefits is subsequently increased, the act's 39-week cap must also be increased correspondingly.

Funding

The act requires the labor secretary to provide the PUA benefits through agreements with states that, in his judgment, have adequate systems for administering the benefits through existing state agencies. Once a state has entered into an agreement, the act provides 100% federal funding for the PUA benefits and any additional administrative expenses that the state incurs to administer them, including those necessary to process applications online or by telephone.

Pandemic Emergency Unemployment Compensation (§ 2107)

The act establishes a Pandemic Emergency Unemployment Compensation (PEUC) program to provide claimants with an additional 13 weeks of unemployment benefits once they have exhausted their regular benefits (i.e., after receiving 26 weeks of benefits).

Eligible Claimants

To participate in the program, a state must enter into an agreement with the labor secretary. The agreement must provide that the state will pay PEUC benefits to claimants who:

1. have exhausted their rights to regular unemployment compensation for a benefit year that ends on or after July 1, 2019;
2. have no rights to regular unemployment benefits from another state or under any other federal law;
3. are not receiving benefits under Canada's unemployment law; and
4. are able to work, available to work, and actively seeking work.

Under the act, claimants are deemed to have exhausted their rights to regular unemployment benefits when (1) no benefit payments can be made because the claimant has received all regular benefits available based on his or her employment or wages during his or her base period or (2) the claimant's right to benefits has ended due to the expiration of the benefit year for the benefits.

The act also requires states to be flexible about the requirement for a claimant to be actively seeking work if a claimant cannot search for work because of COVID-19 (e.g., illness, quarantine, or movement restrictions).

Benefit Amount

The act requires that PEUC agreements provide claimants with weekly PEUC benefits that equal their regular unemployment benefits, plus the amount of the FPUC benefit ($600). It caps an individual claimant's PEUC benefits at 13 times the claimant's average weekly benefit amount, including the FPUC payment.

The same terms and conditions that apply to regular benefits under state law also apply to claims for PEUC benefits, unless they are otherwise inconsistent with the act or subsequent regulations or operating instructions issued by the labor secretary.

Funding

The act generally requires the federal government to reimburse states that have an agreement for 100% of the PEUC benefits paid to claimants and any additional administrative expenses that the state incurs because of the agreement.

However, if a state changes how it determines its regular unemployment benefits in a way that shortens their duration or decreases their value below their levels on January 1, 2020, the agreement ceases to apply.

Fraud and Overpayments

The act makes individuals who fraudulently receive PEUC benefits ineligible for additional PEUC benefits and subject to federal prosecution. Individuals who receive PEUC benefits to which they are not entitled (through fraud or otherwise) must repay the benefits. The state agency administering the benefits must recover the overpayments through reductions in the individual's PEUC or regular unemployment benefits over the course of three years. However, a state may waive the repayment requirement if it finds that (1) the payment was not the individual's fault and (2) repayment would be contrary to equity and good conscience. States must provide claimants accused of fraud or receiving overpayments with an opportunity for a hearing and a review of the determination in the same way that the state's unemployment law provides.

Federal Pandemic Unemployment Compensation (§ 2104)

The act establishes a federal pandemic unemployment compensation (FPUC) program to provide claimants with $600 in weekly FPUC benefits in addition to their regular, PUA, or PEUC benefits. To participate in the program, a state must enter into an agreement with the labor secretary. The agreement must require the state to provide claimants with the regular unemployment benefits they are entitled to under state law, plus an additional $600 in weekly FPUC benefits. Benefit availability covers weeks of unemployment between the date the state enters an agreement and July 31, 2020.

Under the act, the federal government must reimburse states that have an agreement for 100% of the FPUC benefits paid to claimants and any additional administrative expenses that the state incurs because of the agreement. However, if a state changes how it determines its regular unemployment benefits in a way that shortens their duration or decreases their value below their levels on January 1, 2020, the agreement ceases to apply.

States can pay claimants the FPUC benefit with their regular or PUA unemployment benefits, or in a separate payment, but on the same weekly basis. Under the act, the FPUC benefit payments a claimant receives must be disregarded when determining income eligibility for Medicaid and the Children's Health Insurance Program (CHIP).

Fraud and Overpayments

The act makes individuals who fraudulently receive FPUC benefits ineligible for additional FPUC benefits and subject to federal prosecution. It includes the same provisions for recovering or waiving overpayments as the act provides for PEUC.

Federal Funding for First Week of Benefits (§ 2105)

The act establishes a program to provide states with 100% federal funding for their claimants' first week of unemployment benefits. To participate, a state must enter into an agreement with the labor secretary and its state law must not require a one-week waiting period for claimants (Connecticut does not require a waiting period).

Federal funding through the program will cover the total amount of regular benefits the state pays to claimants for their first week of regular unemployment, plus any additional administrative expenses that the state incurs because of the agreement. The funding applies to weeks of unemployment that begin between the date the state enters into the agreement and December 31, 2020.

The same fraud and overpayment recovery provisions apply as in the PEUC program.

Federal Funding for Shared Work Programs (§ 2108)

The act provides 100% federal funding for unemployment benefits paid under a state's short-time compensation (i.e., shared work) program. The funding is available for weeks of unemployment that begin between March 27, 2020, and December 31, 2020. The act (1) caps the funding for each individual claimant at 26 times the claimant's regular unemployment benefits and (2) prohibits states from using the funding to provide benefits to seasonal, temporary, or intermittent employees.

In general, shared work programs allow employers to reduce their employees' work hours in lieu of layoffs. The affected employees receive a proportionally reduced unemployment benefit, which still gives them a greater total income than if they had been laid off with a full unemployment benefit. By remaining employees, they also maintain their fringe benefits (e.g., health insurance).

Federal Grants for Administering Shared Work Programs (§ 2110)

The act allocates $100 million of federal funds for grants to help states administer their shared work programs. The grants must be apportioned to the states based on each state's wages subject to federal unemployment taxes.

One third of the funding must be used to implement or improve the states' administration of their shared work programs. The other two-thirds of the funding must be used to promote and enroll employers in the states' programs. Among other things, the funds may be used to (1) create rapid response teams to advise employers about alternatives to layoffs, (2) help employers to assess the feasibility of participating in the program, and (3) develop automated systems for processing shared work claims and benefits.

The labor secretary must recoup any grants to a state if, within five years after receiving a grant, the state terminates its shared work program or fails to meet appropriate requirements for it.

Federal Funding for "Reimbursing" Employers (§ 2103)

By law, the state must reimburse the unemployment trust fund for 100% of the benefits paid to its laid off state employees, rather than paying state unemployment taxes (CGS § 31-225(d)). Local governments, Indian tribes, and nonprofit organizations may choose to similarly reimburse the fund instead of paying the taxes (CGS § 31-225(e) & (g)). The act provides 50% federal funding for the unemployment benefits paid to employees of these "reimbursing" entities and nonprofit organizations for weeks of unemployment between March 13, 2020, and December 31, 2020.

The act also allows the labor secretary to issue clarifying guidance that allows states to interpret their unemployment laws in a way that provides reimbursing employers with maximum flexibility for payment deadlines and assessments for penalties and interest.

State Staffing Flexibility (§ 2106)

The act allows state unemployment systems, through December 31, 2020, to use temporary staff, rehire retirees or former employees on a non-competitive basis, and take other temporary actions to quickly process unemployment benefit applications and claims without incurring federal penalties that would accrue otherwise.

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