

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 14-21, Change 1

TO: STATE WORKFORCE AGENCIES

FROM: SUZAN G. LEVINE 
Principal Deputy Assistant Secretary

SUBJECT: State Responsibilities After the Temporary Unemployment Benefit Programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as amended, End Due to State Termination of Administration or When the Programs Expire.

1. **Purpose.** To advise states of the operational requirements after the temporary unemployment benefit programs authorized under the CARES Act, as amended, end. These operational requirements apply after the temporary programs expire on September 6, 2021, or earlier if a state chooses to end participation before September 6, 2021.
2. **Action Requested.** The Department of Labor's (Department) Employment and Training Administration (ETA) requests that 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 – The temporary unemployment benefit programs authorized under the CARES Act, as amended, are set to expire on September 6, 2021. These programs include Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), and Mixed Earners Unemployment Compensation (MEUC). Full federal funding for the first week of compensable regular unemployment for states with no waiting week will also expire on September 6, 2021. Additionally, some states have chosen to end participation in some or all of these programs earlier than September 6, 2021, which is permissible with 30-days written notice, under the state's agreement with the Secretary of Labor (Secretary) to administer such programs.

The agreement to administer the PUA, FPUC, PEUC, and MEUC programs remains in effect with respect to weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

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States: (1) are required to accept all PUA, FPUC, PEUC, and MEUC claims for a certain period of time after the date of termination or expiration (whichever comes first) and determine all eligibility issues associated with such claims in a timely manner, including establishing overpayments as appropriate and processing appeals; (2) must individually notify individuals of the termination or expiration; and (3) must continue to comply with the return to work reporting requirements described in Section 4.c. of UIPL No. 09-21 during any period for which the agreement remains in effect. States are also advised of the effect that termination or expiration will have on the transfer of federal funds to provide emergency unemployment relief to governmental entities and certain nonprofit organizations, as well as the first week of compensable regular unemployment for states with no waiting week. After terminating participation, states may choose to reinstitute participation prior to the September 6, 2021 end date of the programs.

Additionally, states are strongly encouraged to identify procedures and resources across available workforce partners to ensure individuals are provided access to reemployment services.

- b. Background – The CARES Act (Public Law (Pub. L.) 116-136), enacted on March 27, 2020, allows, among other things, states to enter into an agreement with the Secretary to administer the PUA, FPUC, and PEUC programs. States without a waiting week may also enter into an agreement with the Secretary to receive full federal funding of the first week of compensable regular unemployment. *See* UIPL No. 14-20. The Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act), set forth at Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), extended the dates for states to administer these programs and allowed states to also enter into an agreement with the Secretary to administer the MEUC program. *See* UIPL No. 09-21. The American Rescue Plan Act of 2021 (ARPA) (Pub. L. 117-2) further extended the dates for states to administer the PUA, FPUC, PEUC, and MEUC programs through September 6, 2021. *See* UIPL No. 14-21.

4. **Guidance.** All states signed an “Agreement Implementing the Relief for Workers Affected by Coronavirus Act” (Agreement) with the Secretary in March 2020 to administer the PUA, FPUC, and PEUC programs. States without a waiting week also signed an addendum to receive full federal funding for the first week of compensable regular unemployment. Additionally, nearly all states signed an addendum to the Agreement in January 2021 to also administer the MEUC program. The Agreement incorporates amendments to the CARES Act made by the Continued Assistance Act and ARPA. 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.

Under the Agreement, each state is required to operate the programs as required by any statutory amendments and the Department's guidance.

While all states must prepare for the expiration of temporary unemployment benefit programs authorized under the CARES Act, as amended, which is currently on September 6, 2021, some states have chosen to end participation in some or all of these programs earlier than the current September 6, 2021 expiration date. 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 discontinue administration of such provisions. Although Section 261(c) of the Continued Assistance Act permits a state to administer the FPUC program without administering MEUC, states do not have authority to administer MEUC and not FPUC. As such, states may not continue to administer the MEUC program after terminating the agreement to administer the FPUC program.

- a. **Processing PUA, FPUC, PEUC, and MEUC claims after the date of termination or expiration.** The state must process and pay benefits to eligible individuals under the PUA, FPUC, PEUC, and MEUC programs for all weeks of unemployment ending on or before the date of termination or expiration (whichever comes first). The state must also comply with all responsibilities with respect to claims filed under these programs for those weeks, including, without limitation, the requirements under the Agreement and in guidance. Accordingly, the Agreement remains in effect with respect to the PUA, FPUC, PEUC, and MEUC programs for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

In all states, under current federal law, no PUA, FPUC, PEUC, and MEUC payments may be made with respect to weeks of unemployment ending after September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week for these programs is the week ending September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week for these programs is the week ending September 5, 2021.

For states that terminate the Agreement to operate some or all of these programs before September 6, 2021, no payments for the terminated programs may be made with respect to weeks of unemployment ending after the date the state terminates participation in the Agreement.

- i. **PUA claims.**

- A. *Taking new applications after the date of termination or expiration.*
The state must continue to take new applications for PUA for 30 days after the date of termination or expiration (whichever comes first). The state must backdate such claims, as appropriate, to the first week during the Pandemic Assistance Period in which the individual was unemployed, partially unemployed, or unable or unavailable to work

because of an approved COVID-19 related reason, subject to the limitation described in Section C.15. of Attachment I to UIPL No. 16-20, Change 4.

- B. *Continued compliance with responsibilities under the Agreement and in guidance.* A state that chooses to terminate the PUA program prior to September 6, 2021 must comply with all responsibilities under the Agreement and in guidance with respect to claims filed under the PUA program for weeks of unemployment ending on or before the date of termination. This includes the processing of claims using the expanded list of COVID-19 related reasons described in Section 4.b. of UIPL No. 16-20, Change 5.
- C. *Accepting submission of income documentation for purposes of calculating a higher PUA weekly benefit amount (WBA).* As described in Question 2 of Attachment I to UIPL No. 16-20, Change 2, states must accept documentation of income to determine an individual's eligibility for a higher PUA WBA at any time during the Pandemic Assistance Period. For the purpose of submitting proof of wages to calculate the PUA WBA, the Pandemic Assistance Period does not change. States terminating participation in the Agreement before September 6, 2021, must continue to allow for submission of such proof through September 6, 2021.

Note that the requirement to provide documentation substantiating employment or self-employment is separate from providing documentation to support the calculation of a higher WBA and has its own deadline, as described in Section C.2. of Attachment I to UIPL No. 16-20, Change 4.

- ii. **FPUC claims.** Individuals do not submit an application to receive the supplementary FPUC payment. Insofar as an individual is eligible to receive payment under one of the qualifying programs described in Section 4.a. of UIPL No. 15-20, the state must pay FPUC with respect to weeks of unemployment ending on or before the date of termination or expiration (whichever comes first). States are reminded that FPUC is not payable with respect to any week of unemployment ending after July 31, 2020, through weeks of unemployment ending on or before December 26, 2020. *See* Section 4.b.iii. of UIPL No. 09-21.
- iii. **PEUC claims.**
 - A. *Taking new applications after the date of termination or expiration.* Insofar as state UC law provides for claims to be backdated, the state must continue to take new applications for PEUC as provided in their

state law for late filing of claims after the date of termination or expiration (whichever comes first).

- B. *Addressing state options for determining eligibility for PEUC or regular UC payments for states terminating PEUC early.* Generally, to be eligible for PEUC, an individual must have exhausted all rights to regular UC. However, as described in Section 4.e.iii. of UIPL No. 17-20, Change 2, certain individuals that are eligible for a new regular UC claim may be eligible to continue receipt of PEUC. States must choose one of four options for administering this provision, as described in Section 4.e.ii. of that same UIPL. As such, certain individuals receiving PEUC in states that are terminating the PEUC program before September 6, 2021, may be eligible for a new regular UC claim upon termination of the PEUC program.

iv. **MEUC claims.**

- A. *Taking new applications after the date of termination or expiration.* Insofar as state UC law provides for claims to be backdated, the state must continue to take new applications for MEUC as provided in their state law for late filing of claims after the date of termination or expiration (whichever comes first).
- B. *States that signed the MEUC addendum and have not yet implemented the MEUC program.* Nearly all states signed an addendum to the Agreement in January 2021 to administer the MEUC program, though some states have not yet implemented the MEUC program. Upon signing the Agreement to administer MEUC, the state agreed to operate the MEUC program through the date of termination or expiration (whichever comes first). Therefore, states must pay MEUC for weeks of unemployment beginning after they signed the agreement through the date of termination or expiration (whichever comes first).

- b. **Required notifications.** The state must individually notify individuals of the termination or expiration (whichever comes first) of these programs. This includes all individuals who: (1) are currently receiving PUA, PEUC, FPUC, or MEUC; and (2) anyone for whom a PUA or PEUC claim was previously established (*i.e.*, individuals with remaining PUA or PEUC balances who stopped filing such claims).

States that are not terminating the Agreement early and that included notification of the September 6, 2021 expiration date at the time of notifying individuals of the changes related to the enactment of ARPA (as described in Section 4.d. of UIPL No. 14-21), do not need to provide additional individual notification to individuals.

- i. **Content of notification.** The individual notification must include the specific date on which the temporary unemployment benefit program(s) end.

Generally, receipt of benefits under the temporary unemployment benefit programs indicates that an individual is not eligible for regular UC. However, if the individual is receiving PEUC at the time a state terminates the PEUC program and the individual is eligible for a regular UC claim as described in Section 4.a.iii.B. of this UIPL, the state must include instructions for reopening or filing the new regular UC claim.

States are also encouraged to provide information about reemployment services, as described further in Section 4.f. of this UIPL.

- ii. **Distribution method for notification.** The distribution method for these notifications must be consistent with other correspondence provided to the individuals receiving these benefits by the state, which may include notification by mail, email, or through the individual’s online web portal.

Additionally, the state may also post general information about the date of termination or expiration on their websites and on social media.

- c. **“Return to Work” reporting requirement.** The state must continue to comply with the Return to Work Reporting Requirement, described in Section 4.c. of UIPL No. 09-21, during any period in which an Agreement for any of the UI-related provisions under the CARES Act, as amended, remains in effect. This includes PUA, FPUC, full federal funding of the first week of compensable regular unemployment for states with no waiting week, PEUC, MEUC, and/or 100 percent reimbursement of STC benefit costs paid under state law.

As described in Section 4.a. of this UIPL, the Agreement remains in effect with respect to PUA, FPUC, PEUC, MEUC, and the first week of compensable regular unemployment for states with no waiting week for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

This reporting requirement includes: (1) having a procedure for how work refusals are received, evaluated/adjudicated, and resolved; (2) providing a reporting method for employers to notify the State agency when an individual refuses an offer of employment; and (3) providing a plain-language notice to claimants containing specific provisions described in Section 4.c. of UIPL No. 09-21 at the time an adjudication issue for refusing work is created.

- d. **Emergency unemployment relief for governmental entities and certain nonprofit organizations.** Some states have provided written notice to terminate participation in the Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations provision under Section 2103 of the CARES Act, as amended. The

Department interprets this to mean that the state does not intend to use the fund transfers under Section 2103 of the CARES Act, as amended, for the authorized purpose specified in Section 903(i)(1)(C) of the Social Security Act (SSA). *See* UIPL No. 18-20, Change 2. As such, unless notified otherwise by the state, the Department will discontinue transferring funds to those states for weeks of unemployment beginning on or after the date of termination. States will receive funds for weeks of unemployment that occurred prior to the termination date. If a state wishes to resume receiving the transfers of funds and reducing the reimbursement amounts owed by governmental entities and certain nonprofit organizations, it must notify the Department immediately.

- e. **Full federal funding of the first week of compensable regular unemployment for states with no waiting week.** The State must comply with all responsibilities with respect to all waiting week payments for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) and comply with all responsibilities with respect to claims filed under these programs for those weeks, including, without limitation, the requirements under the Agreement. *See* UIPL No. 20-20. Accordingly, the Agreement remains in effect with respect to the first compensable week for weeks of unemployment ending on or before the date of termination or expiration (whichever comes first) until all issues relating to those weeks are resolved.

In addition, the state must reconcile any drawdowns consistent with the guidance provided in UIPL No. 20-20 to ensure that any funds that are drawn pursuant to the line labeled, “WD For 2105 Temporary Comp,” in the Automated Standard Application for Payments system are drawn down only for the reason attributable to Section 2105 of the CARES Act, as amended, and are no longer drawn for any weeks of unemployment beginning on or after the date of termination or expiration (whichever comes first).

- f. **Reinstating participation in the pandemic UI programs.** Any state that has provided notice to the Department of its intent to terminate any of the pandemic UI programs prior to the September 6, 2021 end date may reinstate participation in any or all programs it previously indicated it would be terminating. If the state’s date of termination has not become effective, the state simply needs to provide the Department with written notice that it is rescinding or modifying the effective date of its prior notice of termination for the particular program(s) and the state will then be able to continue making payments under the program(s).

If the date of termination has occurred and the state has terminated participation, the state may need to enter into a new agreement with the Department to reinstate operations. By entering into a new agreement, the state may experience a lapse in time period for which the state may pay benefits under the FPUC, MEUC, and PEUC programs as the new agreement becomes effective the week of unemployment beginning after a new agreement is signed. The state will not experience a lapse in time period for which the state may pay benefits under the PUA program and the state must provide an opportunity for individuals receiving PUA to certify for the missing weeks.

If a state enters into a new agreement or rescinds, rather than modifies, the previous notice of termination, the state would need to provide 30-day notice of any future termination of participation in the pandemic UI programs.

States interested in reinstating previously terminated programs should contact ETA for further assistance in doing so.

g. Importance of assisting individuals in utilizing available reemployment resources.

The Department strongly encourages states to identify procedures and resources across available workforce partners to ensure individuals affected by the termination or expiration of these temporary unemployment benefit programs are provided access to services through the workforce system. Refer to the resources in Training and Employment Notice (TEN) No. 08-20. Additionally, states may inform individuals of the wide array of activities that support reemployment in today's labor market, including receiving services through American Job Centers. See the sample list of activities for an individual to be "actively seeking work" provided in Attachment I to TEN 17-19.

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

6. References.

- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);
- UIPL No. 20-21, *State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended*, issued May 5, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6830;
- UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669;
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) - Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831;
- 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 2, *American Rescue Plan Act of 2021 (ARPA) – Amendments to the Emergency Unemployment Relief for State and Local Governmental Entities, Certain*

Nonprofit Organizations, and Federally-Recognized Indian Tribes, issued March 26, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7171;

- UIPL No. 17-20, Change 2, *Continued Assistance for Unemployed Workers Act of 2020 – Pandemic Emergency Unemployment Compensation (PEUC) Program: Extension, Transition Rule, Increase in Total Benefits, and Coordination Rules*, issued December 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=9291;
- UIPL No. 16-20, Change 5, *Expanded Eligibility Provisions for the Pandemic Unemployment Assistance (PUA) Program*, issued February 25, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3202;
- UIPL No. 16-20, Change 4, *Continued Assistance to Unemployed Workers Act of 2020 – Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued January 8, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6973; and
- 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. 15-20, Change 3, *Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions*, issued January 5, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6122;
- 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 4, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297;
- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390;
- TEN No. 08-20, *Public Workforce System Role in Reopening State and Local Economies*, issued December 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5171; and
- TEN No. 17-19, *Model Unemployment Insurance State Work Search Legislation*, issued February 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4227.

7. **Attachment(s)**. None.