

Acceptable COVID-19 Related Reasons for PUA Eligibility

Individuals must self-certify that they are otherwise able and available to work within the meaning of applicable state law, except that the individual is unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 related reason(s) described below. Included for each of the reasons are illustrative examples and explanations of circumstances that fall under each category. Examples and explanations for each of the categories under items (aa) through (jj) of Section 2102(a)(3)(A)(ii)(I) of the CARES Act are not an exhaustive list of all examples within each category. If states consider other qualifying circumstances, such circumstances must align with one of the (aa)-(jj) reasons and be applied in a manner consistent with the examples below. Additionally, the Secretary, in his authority to approve additional items under Section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act, has approved four (4) additional circumstances under which an individual may certify.

aa. The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis. For example:

- An individual who has to quit his or her job as a direct result of COVID-19 because the individual has tested positive for COVID-19 or has been diagnosed with COVID-19 by a qualified medical professional, and continuing work activities, such as through telework, is not possible by virtue of such diagnosis or condition;
- An individual who has to quit his or her job due to coming in direct contact with someone who has tested positive for COVID-19 or has been diagnosed by a medical professional as having COVID-19, and, on the advice of a qualified medical health professional is required to resign from his or her position in order to quarantine.

bb. A member of the individual's household has been diagnosed with COVID-19. For example:

- A member of the individual's household has been diagnosed as having COVID-19 by a qualified medical professional or a member of the individual's household has tested positive for COVID-19 and the individual is unable to work as a result.

cc. The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19. For example:

- An individual is "providing care" for a family member or a member of the individual's household if the provision of care requires such ongoing and constant attention that the individual's ability to perform other work functions is severely limited. An individual who is assisting a family member who is able to adequately care for him or herself is not "providing care" under this category.

dd. A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work. For example:

- An individual has “primary caregiving responsibility” for a child or other person in the household if he or she is required to remain at home to care for the child or other person.
- This includes an individual whose job allows for telework, but for whom the provision of care to the child or other person with a closed school or other facility requires such ongoing and constant attention that it is not possible for the individual to perform work at home.

ee. The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency. For example:

- An individual who is unable to reach his or her place of employment because doing so would require the violation of a state or municipal order restricting travel that was instituted to combat the spread of COVID-19.

ff. The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. For example:

- An individual who has been advised by a qualified medical professional that he or she may be infected with COVID-19 and that he or she therefore should self-quarantine. For example, an individual had direct contact with another person who has tested positive for COVID-19 or been diagnosed with COVID-19 by a qualified medical professional and is advised by a health care provider to self-quarantine to prevent further possible spread of the virus. Such circumstances would render the individual unable to reach his or her place of employment.
- An individual whose immune system is compromised by virtue of a serious health condition and is therefore advised by a health care provider to self-quarantine in order to avoid the greater-than-average health risks that the individual might face if he or she were to become infected by COVID-19.

gg. The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency. For example:

- An individual is unable to reach his or her job because doing so would require the violation of a state or municipal order restricting travel that was instituted to combat the spread of COVID-19 or the employer has closed the place of employment.
- An individual does not have a job because the employer with whom the individual was scheduled to commence employment has rescinded the job offer as a direct result of the COVID-19 public health emergency.

hh. The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19. For example:

- An individual whose head of household previously contributed the majority of financial support to the household died as a direct result of COVID-19, and the individual is now the person in the household expected to provide such financial support.

ii. The individual has to quit his or her job as a direct result of COVID-19. For example:

- An individual was diagnosed with COVID-19 by a qualified medical professional, and although the individual no longer has COVID-19, the illness caused health complications that render the individual objectively unable to perform his or her essential job functions, with or without a reasonable accommodation. States should also note that, for purposes of item (ii), an individual does not have to quit his or her job as a direct result of COVID-19 if paid sick leave or other paid leave benefits are available to the individual. Generally, an employee “has to quit” within the meaning of this Section only when ceasing employment is an involuntary decision compelled by the circumstances identified in this Section.

jj. The individual’s place of employment is closed as a direct result of the COVID-19 public health emergency. For example:

- If a business is shut down due to an emergency declaration or due to necessary social distancing protocols, the resulting unemployment of affected individuals would be considered a direct result of COVID-19. While a government-mandated closure is not necessary to satisfy this category, the claimant must be able to self-certify that the business was closed “as a direct result of the COVID-19 public health emergency.”
- If a business has multiple parts and one or some of those parts is shut down due to restrictions imposed by COVID-19, affected staff from the parts of the business that shut down may be eligible for PUA. For example, a business may include both a restaurant and a brewery. If the individual’s place of employment is the restaurant and the restaurant is shut down because of the COVID-19 pandemic, even if the brewery continues to operate, the individual who was employed in the restaurant may be eligible for PUA. An individual who is working reduced hours while his or her place of employment continues to operate does not satisfy the conditions to self-certify under item (jj).

kk. The individual meets any additional criteria established by the Secretary for unemployment assistance under this Section.

To date, the Secretary has approved the four (4) criterion under the Secretary’s authority provided in Section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act (*see* Section 4.b. of UIPL No. 16-20, Change 2; Section C.1.kk. of Attachment I to UIPL No. 16-20, Change 4; and Section 4.a of UIPL 16-20, Change 5). These reasons are described below.

1. Self-employed individuals (including independent contractors and gig workers) who experienced a significant diminution of their customary or usual services because of the COVID-19 public health emergency, even absent a suspension of services.

States may use the following verbiage for item (kk.1): “I am self-employed (including an independent contractor or gig worker) and experienced a significant reduction of services because of the COVID-19 public health emergency.”

2. The individual has been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, is not in compliance with local, state, or national health and safety standards directly related to COVID-19. This includes, but is not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines.

For purposes of this COVID-19 related reason, unemployment benefits include regular UC, Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Servicemembers (UCX), PUA, PEUC, EB, Short-Time Compensation (STC), Trade Readjustment Allowances (TRA), Disaster Unemployment Assistance (DUA), and payments under the Self-Employment Assistance (SEA) program.

An individual is generally denied unemployment benefits if the state determines that the work is suitable and the individual did not have good cause for refusing such work. This COVID-19 related reason applies only to individuals who had already been receiving unemployment benefits but were determined to be ineligible or disqualified under state law because they refused an offer of work at a worksite that was not in compliance with local, state, or national health and safety standards directly related to COVID-19. This is a separate COVID-19 related reason from item (ii) of Section 2102(a)(3)(A)(ii)(I) of the CARES Act, which provides eligibility to an individual who quits their job as a direct result of COVID-19.

For example, an individual may self-certify under this COVID-19 related reason who has previously been denied because the state law does not consider health and safety standards when assessing suitability or good cause, *or* who has previously been denied because the health and safety standards considered under state law are more restrictive than the local, state, or national COVID-19 health standards. Below are a few non-exhaustive scenarios. *See* Section 4.b.iv. UIPL No. 16-20, Change 5 for additional details regarding PUA effective dates.

- An individual was laid off in June 2020 and began receiving regular UC. The individual was recalled to work in October 2020. However, because the worksite was not in compliance with the local mask mandate, the individual refused to return to work. The individual was disqualified from continued receipt of regular UC under state law. The individual is eligible to apply for PUA under this COVID-19 related reason.

- An individual was laid off in October 2020 and began receiving regular UC. The individual received a new job offer in January 2021, however, the new worksite was unsafe due to non-compliance with physical distancing measures under state law. The individual was disqualified from continued receipt of regular UC under state law. The individual is eligible to apply for PUA under this COVID-19 related reason.

An individual is not eligible for PUA if they are otherwise eligible for regular UC (or PEUC or EB). Many states have provisions in their state UC law that consider work that unreasonably exposes an individual to health and safety risks to be unsuitable work. The state may determine, if it is consistent with the state's law, that the work is not suitable. Or, the state may find the work is suitable but determine that the individual had good cause for refusing such work.¹ In these circumstances, the individual must continue to receive unemployment benefits, provided they are otherwise eligible. The individual is not eligible for PUA using this COVID-19 related reason if the individual was determined eligible for continued unemployment benefits for refusal of work under state law. Moreover, an individual who is allowed continued unemployment benefits and subsequently exhausts such benefits is not eligible for PUA using this COVID-19 related reason.

3. An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule that is directly caused by the COVID-19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures.

This COVID-19 related reason addresses situations where an individual provides services to educational institutions or educational service agencies and is subject to significant volatility in the school schedule directly related to COVID-19. Whether the individual is “between or within terms” and has a “contract” or “reasonable assurance” to return in the subsequent year or term will affect the individual's ability to self-certify under this COVID-19 related reason, as described below.² Attachment II to UIPL 16-20, Change 5 provides a graphical representation of the process for determining PUA eligibility under this reason.

- A. *Individual does not have a contract or reasonable assurance.* An individual who: (1) has provided services to an educational institution or educational service agency; (2) lacks a contract or reasonable assurance and, as a result, is not subject

¹ The Department reminds states that Section 4102(b) of the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), set out at Division D of the Families First Coronavirus Response Act (Pub. L. 116-127), provides states with the authority to temporarily modify their good cause provisions as needed in response to the spread of COVID-19 (*see* Section 5.C. of UIPL No. 13-20).

² UIPL No. 10-20, Change 1, provides additional information about the “between and within terms” denial provision within the context of COVID-19. UIPL No. 05-17 clarifies the Department's interpretation of the terms “contract” and “reasonable assurance” and assists states in applying these terms consistent with federal law requirements.

to the “between and within terms” denial provisions; and (3) is not otherwise eligible for regular UC (or PEUC or EB) may self-certify eligibility for PUA under this COVID-19 related reason if they are subject to significant volatility in the school schedule.

If the individual does not have a contract or reasonable assurance to return *and* self-certifies eligibility under this COVID-19 related reason (or another COVID-19 related reason that is applicable to their situation), the individual may use wages from the educational institution to potentially qualify for a WBA that is higher than the state’s minimum PUA WBA.

- B. *Individual has a contract or reasonable assurance.* An individual is generally not eligible for PUA if they: (1) have provided services to an educational institution or educational service agency; and (2) are filing for a week that is between or within terms and they have a contract or reasonable assurance to return in the subsequent year or term, and, as a result, they are denied regular UC (or PEUC or EB).

However, the individual may be eligible for PUA if they have other non-educational employment from which they are able to self-certify that they are unemployed, partially unemployed, or unable or unavailable to work for a different COVID-19 related reason. As described in Section 4.e.i. of UIPL No. 10-20, Change 1, wages from the educational institution may not be used to calculate the individual’s PUA WBA.

If school schedules or planned school openings are disrupted and an individual is found to no longer have a contract or reasonable assurance to return in the subsequent year or term, then they can establish eligibility going forward as described in subparagraph (A) under this COVID-19 related reason or another COVID-19 related reason that is applicable to their situation.

Federal law allows retroactive payments of regular UC (or PEUC or EB) under certain circumstances for individuals in a nonprofessional capacity if they no longer have a contract or reasonable assurance. *See* Section 4.d.(4). of UIPL No. 05-17. When determining if such individuals may receive PUA for weeks previously denied under regular UC (or PEUC or EB) because the individual had a contract or reasonable assurance and the individual was later found not to have reasonable assurance, states must first determine if the individual qualifies for regular UC (or PEUC or EB) under the state’s backdating provisions. If the individual does not qualify for backdating for regular UC, then they may retroactively self-certify for PUA under this COVID-19 related reason. States must determine PUA effective dates consistent with instructions provided in Section 4.b.iv. of UIPL 16-20, Change 5 and Section C.15. of Attachment I to UIPL No. 16-20, Change 4.

The individual must report any earnings each week that they file for PUA. The individual's WBA must be reduced on account of such earnings and income as prescribed under state law. Individuals who receive a full salary during periods of disruption are not considered to be "unemployed" and would not be eligible for PUA. *See* Section 4.a. of UIPL No. 10-20.

4. An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

This COVID-19 related reason expands eligibility beyond the current provision of item (jj) of Section 2102(a)(3)(A)(ii)(I) of the CARES Act, which is limited to situations where the individual's place of employment is closed. Under this COVID-19 related reason, if an individual is laid off because the place of employment is partially closed (either permanently or temporarily) or the individual has experienced a reduction in hours, the individual may self-certify eligibility.

Generally, individuals in covered employment who are laid off, are experiencing a reduction in hours, or are working part-time as a result of partial business closure would qualify for regular UC (or PEUC or EB) and therefore would not be eligible for PUA. However, such individuals may not be eligible for regular UC (or PEUC or EB) because, for example, they lack sufficient wages to qualify, have a previous disqualification, or have exhausted regular UC, PEUC, and EB. This COVID-19 related reason establishes a circumstance under which they may self-certify eligibility for PUA.³

The individual must report any earnings from the reduced hours when filing continued claims and such amounts must be deducted from the PUA weekly benefit amount in accordance with the state law. *See* Section C.16.c. of Attachment I to UIPL No. 16-20, Change 4.

States are reminded that for each week of PUA claimed, states must ensure that an individual completes a self-certification form (either paper or online) that includes the following:

- The identification of the specific applicable COVID-19 related reason(s) under Section 2102(a)(3)(A)(ii) of the CARES Act, and
- A notice advising the individual that intentional misrepresentation on the self-certification is fraud (*see* Question 45 of Attachment I to UIPL No. 16-20, Change 1).

Because eligibility is based on self-certification, no further fact-finding is involved.

Additionally, states are required to take reasonable and customary precautions to deter and detect fraud. *See* Section C.21. of Attachment I to UIPL 16-20, Change 4 and UIPL Nos. 28-20;28-20, Change 1; and 28-20, Change 2, for additional details on tools to combat fraud.

³ For examples of individuals who may qualify for PUA with previous disqualifications, refer to Questions 30, 31, and 33 of Attachment I to UIPL No. 16-20, Change 1, or Question 12 of Attachment I to UIPL No. 16-20, Change 2.

Attachment I to UIPL No. 16-20, Change 5, provides a sample self-certification declaration for states and includes all of the approved COVID-19 related reasons.

Able and Available Requirements for PUA. States should bear in mind that many of the qualifying COVID-19 related reasons are likely to be of limited duration and eligibility for PUA requires that the individual is otherwise able to work and available for work within the meaning of applicable state law. For example, an individual who has been advised to self-quarantine by a health care provider because of the individual's exposure to a person who has tested positive for COVID-19 and is therefore unable to reach their place of employment for purposes of item (ff) may be able to return to their place of employment within two weeks of the exposure if they have not exhibited symptoms of COVID-19 or tested positive for COVID-19. Similarly, a school is not closed as a direct result of the COVID-19 public health emergency, for purposes of item (dd), after the date the school year was originally scheduled to end, as described in more detail in UIPL No. 16-20, Change 3. As such, the expectation is that states will continue to assess an individual's ability to work and availability for work each week that the individual is collecting PUA to ensure the individual remains otherwise able to work and available for work except for the identified COVID-19 related reason(s). States may do this through the continued claims process by asking if the individual is otherwise able and available for work, except the their inability or unavailability is due to one of the COVID-19 reasons.