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**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 16-20
Change 4**

TO: STATE WORKFORCE AGENCIES

**FROM: JOHN PALLASCH /s/
Assistant Secretary**

**SUBJECT: Continued Assistance to Unemployed Workers Act of 2020—Pandemic
Unemployment Assistance (PUA) Program: Updated Operating Instructions and
Reporting Changes**

1. **Purpose.** To provide states with updated guidance for the PUA program, as amended by the Continued Assistance to Unemployed Workers Act of 2020 (Continued Assistance Act) and updated instructions for reporting PUA program activities.
2. **Action Requested.** The U.S. Department of Labor’s (Department) Employment and Training Administration (ETA) requests that State Workforce Administrators provide the information in this Unemployment Insurance Program Letter (UIPL) and all attachments to appropriate program and other staff in state workforce systems as they implement the changes to the PUA program and the required reporting of PUA activities as amended by the Continued Assistance Act.
3. **Summary and Background.**
 - a. Summary – On December 27, 2020, the President signed into law the Continued Assistance Act, which includes Unemployment Insurance (UI) related provisions that make the following changes to PUA:
 - i. extending PUA program authorization until March 14, 2021;
 - ii. adding a phaseout period, through weeks beginning on or before April 5, 2021, for individuals who have remaining entitlement to PUA and who are receiving PUA as of the end of the program (March 13, 2021, for states with a Saturday week ending date and March 14, 2021, for states with a Sunday week ending date);
 - iii. adding a new limitation on backdating claims filed after December 27, 2020 (the enactment date of the Continued Assistance Act);

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- iv. increasing the maximum number of PUA weeks available from 39 weeks to 50 weeks, subject to limitations on the dates in which these additional 11 weeks may be collected;
- v. adding a requirement for individuals to submit documentation of employment or self-employment;
- vi. establishing the self-certification process for continued claims in statute;
- vii. permitting states to waive PUA overpayments under certain conditions;
- viii. providing a hold harmless provision for individuals who are currently receiving PUA after having exhausted Pandemic Emergency Unemployment Compensation (PEUC), but who are now eligible to receive additional benefit amounts available on the PEUC claim;
- ix. establishing in statute the existing PUA appeals guidance; and
- x. adding a requirement for states to verify the identity of PUA applicants.

In addition to the changes made by the Continued Assistance Act, the Department provides further guidance regarding fraud penalties imposed on individuals for PUA overpayments.

ETA has also revised the ETA 902P report to include additional data items for tracking PUA overpayment recovery activities, claim exhaustions, and overpayments resulting from identity theft.

All other PUA program parameters, as provided in Section 2102 of the CARES Act, PUA agreements, UIPL Nos. 16-20; 16-20, Change 1; 16-20, Change 2; and 16-20, Change 3, remain the same.

- b. Background – The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Pub. L. 116-136) created the PUA program to provide temporary assistance to individuals who are unemployed, partially unemployed, unable, or unavailable for work due to specified COVID-19 related reasons and who are not eligible for regular state or federal unemployment benefits. The CARES Act authorized PUA through weeks of unemployment ending before December 31, 2020.

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, the Emergency Unemployment Insurance Stabilization and Access Act, 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 on Changes to PUA in the Continued Assistance Act. An overview of key changes to the PUA program is provided below.

The Agreement Implementing the Relief for Workers Affected by Coronavirus Act that was signed by each state in March 2020, remains in effect along with the modifications and extensions required as a result of these updated provisions. When determining the appropriate course of action in administering the PUA program, states should first consult Section 2102 of the CARES Act, as amended by the Continued Assistance Act, and the subsequent operating instructions provided by the Department. Where the CARES Act, as amended, and the operating instructions are silent, states should refer to the Disaster Unemployment Assistance (DUA) regulations at 20 C.F.R. Part 625. All other PUA program

parameters, as provided in Section 2102 of the CARES Act, PUA agreements, UIPL Nos. 16-20; 16-20, Change 1; 16-20, Change 2; and 16-20, Change 3, remain the same.

Detailed instructions for implementing the amendments are included in Attachment I, Pandemic Unemployment Assistance (PUA) Implementation and Operating Instructions and Attachment II, Handbook 401 Instructions for ETA 902 Pandemic Unemployment Assistance. Attachment III provides a matrix of eligibility requirements and benefit availability dependent on the claim filing date. Attachment I, Pandemic Unemployment Assistance (PUA) Implementation and Operating Instructions is structured to enable states to know what guidance is new, what is modified, and what has not changed.

a. Changes to Program Dates and Benefit Duration.

- i. **Extension of Program.** Section 201(a) of the Continued Assistance Act extends PUA authorization through weeks of unemployment ending on or before March 14, 2021. This means that for states where weeks of unemployment end on a Saturday, the last week payable is the week ending March 13, 2021, and for states with weeks ending on Sunday, the last week payable is the week ending March 14, 2021. Refer to section C.14. of Attachment I to this UIPL for additional detail.
- ii. **Phaseout Period.** Section 201(a)(3) of the Continued Assistance Act provides a phaseout period for individuals receiving PUA as of the end of the program (March 13, 2021, for states with a Saturday week ending date and March 14, 2021, for states with a Sunday week ending date), who have not yet exhausted their PUA entitlement. These individuals may continue to collect PUA for any week in which they have remaining entitlement and are otherwise eligible, except that no PUA is payable for any week beginning after April 5, 2021 (April 10, 2021 for states with a Saturday week ending date and April 11, 2021 for states with a Sunday week ending date). Refer to section C.5. of Attachment I to this UIPL for additional detail. States may not accept any new PUA claims for weeks of unemployment after March 13, 2021 for states with a Saturday week ending date and March 14, 2021, for states with a Sunday week ending date.
- iii. **New Limitations on Backdating.** As discussed in Question 4 of Attachment I to UIPL No. 16-20, Change 1, individuals filing for PUA must have their claims backdated to the first week during the Pandemic Assistance Period (PAP) 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, Section 201(f) of the Continued Assistance Act limits the availability of backdating for claims that are filed after December 27, 2020 to no earlier than December 1, 2020. Refer to section C.15. of Attachment I to this UIPL for additional detail.

- iv. **Modification to Benefit Duration.** The maximum number of weeks of PUA benefits is modified to increase from 39 weeks to 50 weeks. The number of weeks available continues to be reduced by any weeks of regular UC and Extended Benefits (EB) that the individual receives during the PAP. Individuals may only collect these additional 11 weeks of benefits with respect to weeks of unemployment beginning on or after December 27, 2020. Refer to section C.17. of Attachment I to this UIPL for additional detail.
 - v. **Notification Requirements.** States must re-determine existing PUA claims to reflect the additional weeks of potential eligibility. States must also identify each individual with a PUA claim on file and advise these individuals that they are potentially eligible for additional PUA benefits. States must provide these individuals with instructions for reopening their PUA claims (if the individual has stopped collecting PUA). Refer to section C.28 of Attachment I of this UIPL for additional detail.
- b. **New Requirement for Individuals to Submit Documentation of Employment or Self-Employment.** Section 241 of the Continued Assistance Act, creates a new requirement for individuals to submit documentation substantiating employment or self-employment. Refer to section C.2. of Attachment I to this UIPL for additional detail.
- i. **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 for not submitting documentation under state UC law within 21 days.
 - ii. **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 commencement 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.
- c. **Continued Eligibility Requirements.** 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 (30 days after the enactment of the Continued Assistance Act).

Additionally, in the case of states that made a good faith effort to implement the PUA program prior to the effective date of this provision, an individual will not be denied benefits for the weeks ending prior to January 26, 2021, solely for failing to submit a weekly self-certification. Refer to section C.7. of Attachment I to this UIPL for additional detail.

- d. **Overpayment Waiver Authority.** Section 201(d) of the Continued Assistance Act permits a state to waive repayment of a PUA overpayment if the state determines that: i) the overpayment was without fault on the part of the individual and ii) that repayment would be contrary to equity and good conscience. Refer to section C.21.b. of Attachment I to this UIPL for additional detail.
- e. **Hold Harmless Provision for Individuals who are Provided Additional Benefit Amounts on a Previous PEUC claim.** Under the CARES Act, 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 as a result of Section 206(b) of the Continued Assistance Act becomes eligible for additional amounts of PEUC beginning on or after December 27, 2020. Refer to section C.6. of Attachment I to this UIPL for additional detail.
- f. **Requirement to Verify Identity.** Section 242 of the Continued Assistance Act requires that states must include procedures for identity verification or validation for timely payment, to the extent reasonable and practicable, by January 26, 2021 (30 days after the enactment of the Continued Assistance Act) to ensure that they have an adequate system for administering the PUA program. Refer to section C.3. of Attachment I to this UIPL for additional details.
- g. **Technical Correction for the Commonwealth of Northern Mariana Islands (CNMI).** Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) 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. Refer to section C.8. of Attachment I to this UIPL for additional details.
- h. **Appeals Processes.** Section 201(c) of the Continued Assistance Act provides that individuals may appeal their rights on any PUA determination or redetermination made by the state and that all levels of appeals filed in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands shall be carried out by the applicable state that made the determination or redetermination and shall be conducted in the same manner and to the same extent as the state would conduct appeals of determinations and redeterminations regarding rights to regular compensation under state law.

With respect to any appeals filed in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau, all levels of appeals shall be carried out by the applicable entity within the territory in the same manner and to the same extent as appeals of regular unemployment compensation conducted under the unemployment compensation law of Hawaii. Refer to section C.20. of Attachment I to this UIPL for additional detail.

5. **Fraud Penalties for PUA Overpayments.** Consistent with the requirements of Section 251 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), Pub. L. 112-40 (2011), if a state determines that it made an erroneous PUA payment to an individual due to fraud committed by the individual, the state must apply a minimum 15 percent penalty on such individual. Refer to Section C.21 of Attachment I to this UIPL for additional detail.
6. **Changes to the PUA Activity Report, ETA 902P.** ETA has revised the ETA 902P report to include additional data items that will be used to assess state overpayment recovery efforts for the PUA program, inform policy makers about the program, determine the effectiveness of identity theft prevention efforts, and assess additional program integrity needs. Please refer to Section E of Attachment I to this UIPL for additional detail.
7. **Inquiries.** We encourage states to contact the Department for technical assistance. Please direct inquiries to covid-19@dol.gov, with a copy to the appropriate ETA Regional Office.
8. **References.**
 - Continued Assistance to Unemployed Workers Act of 2020 (Continued Assistance Act);
 - Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Pub. L. 116-136), Title II, Subtitle A;
 - Section 251 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), Pub. L. 112-40;
 - Section 303(a)(1), (3), and (11) of the Social Security Act;
 - 5 C.F.R. Subpart C § 845.303 - Standards for Waiver of Overpayments;
 - 20 C.F.R. Part 625 -Disaster Unemployment Assistance;
 - 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 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*, August 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8044;

- 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. 16-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions*, issued April 5, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628;
- 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, Change 2, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Pandemic Unemployment Assistance (PUA) Program Additional Questions and Answers*, issued July 21, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5479;
- UIPL No. 16-20, Change 3, *Eligibility of Individuals who are Caregivers for Pandemic Unemployment Assistance in the Context of Scholl Systems Reopening*, issued August 27, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3849; and
- UIPL 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.

9. Attachments.

- Attachment I: Pandemic Unemployment Assistance (PUA) Implementation and Operating Instructions;
- Attachment II: UI Report Handbook No. 401, ETA 902P – Pandemic Unemployment Assistance;
- Attachment III: Processing PUA Claims Based on the Claim Filing Date;
- Attachment IV: PUA Provisions under the Consolidated Appropriations Act, 2021. Division N, Title II, Subtitle A, Chapter I, Continued Assistance to Unemployed Workers Act of 2020.