

January 11, 2021

## Unemployment Insurance Provisions in the Consolidated Appropriations Act, 2021 (Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020)

The Unemployment Insurance (UI) provisions contained in Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (P.L. 116-260, enacted December 27, 2020) are titled the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act). The Continued Assistance Act (1) reauthorizes and expands the enhanced UI benefits created under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act; P.L. 116-136, enacted March 27, 2020); (2) extends the authorization for additional, temporary UI provisions first authorized under the CARES Act and the Families First Coronavirus Response Act (FFCRA; P.L. 116-127, enacted March 18, 2020); and (3) creates additional program integrity requirements for the temporary, enhanced UI benefits.

For more information on the UI provisions in FFCRA, the CARES Act, and the Continued Assistance Act, see CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*.

### Reauthorized and Expanded Federal UI Benefits

The UI provisions in the Continued Assistance Act reauthorize and expand three temporary UI benefits created under the CARES Act: Federal Pandemic Unemployment Compensation (FPUC); Pandemic Emergency Unemployment Compensation (PEUC); and Pandemic Unemployment Assistance (PUA). The Continued Assistance Act also provides \$500,000 in funding to each state for implementation of the changes to FPUC, PEUC, and PUA (states may request additional administrative funding, if needed). Additionally, the Continued Assistance Act authorizes, at the option of states, a \$100 per week benefit augmentation for unemployed workers with income from both wage-and-salary jobs and self-employment—Mixed Earned Unemployment Compensation (MEUC).

### Federal Pandemic Unemployment Compensation

Originally authorized under the CARES Act at \$600 per week, FPUC is a benefit augmentation for individuals receiving weekly UI benefits that initially expired on July 25, 2020 (July 26, 2020, in New York). After this expiration, on August 8, 2020, President Trump issued a presidential memorandum creating Lost Wages Assistance (LWA), a grant program that supplemented the weekly benefits of certain eligible UI claimants, with up to \$300 weekly in federal funding. All states ended LWA payments by September 5, 2020. The Continued Assistance Act reauthorizes FPUC at \$300 per week for weeks of unemployment beginning after December 26, 2020, and

ending on or before March 14, 2021. After March 13, 2021 (March 14, 2021, in New York), no FPUC benefits are payable.

### Pandemic Emergency Unemployment Compensation

PEUC provides additional weeks of federally financed UI benefits for individuals who exhaust state and federal UI benefits and are able, available, and actively seeking work, subject to Coronavirus Disease 2019- (COVID-19-) related flexibilities. Originally created as a 13-week UI extension under the CARES Act and payable through weeks of unemployment ending December 26, 2020 (December 27, 2020, in New York), the Continued Assistance Act

- authorizes 11 additional weeks of PEUC benefits (not retroactive; only payable with respect to weeks of unemployment beginning December 26, 2020; December 27, 2020, in New York)—for a total of 24 weeks of PEUC;
- extends the authorization for PEUC through weeks of unemployment ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York); and
- creates a phaseout period for PEUC so that, for individuals who are receiving PEUC at the end of the program (March 13, 2021; March 14, 2021, in New York), have not exhausted available weeks of PEUC, and remain otherwise eligible, PEUC benefits are payable until April 10, 2021 (April 11, 2021, in New York).

### Pandemic Unemployment Assistance

PUA is a temporary, federal UI program for individuals who are not otherwise eligible for UI benefits (e.g., self-employed, independent contractors, gig economy workers) and are unemployed due to a specific COVID-19-related reason. Under the CARES Act, PUA provided up to 39 weeks of benefits for weeks of unemployment ending December 26, 2020 (December 27, 2020, in New York). The Continued Assistance Act

- authorizes 11 additional weeks of PUA benefits (not retroactive; only payable with respect to weeks of unemployment beginning December 26, 2020; December 27, 2020, in New York), for a total of 50 weeks of PUA;

- extends the authorization for PUA through weeks of unemployment ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York);
  - creates a phaseout period for PUA so that, for individuals who are receiving PUA at the end of the program (March 13, 2021; March 14, 2021, in New York), have not exhausted available weeks of PUA, and remain otherwise eligible, PUA benefits are payable until April 10, 2021 (April 11, 2021, in New York);
  - provides a new deadline for the backdating of PUA claims (previously, PUA claims could be backdated to February 2, 2020)—initial PUA applications for PUA filed after December 27, 2020, may not be backdated earlier than December 1, 2020; and
  - enacts additional measures related to PUA, including (1) authority for states to waive recovery of PUA overpayments in cases of nonfault and hardship (retroactive for any PUA overpayment); (2) codification of the PUA appeals process to be conducted by states; and (3) requirements for additional documentation by claimants and other PUA program integrity measures (as described in “UI Program Integrity Measures”).
- including the Kennedy Center, that have opted not to pay UI taxes but instead reimburse states for regular UI benefits paid to their former employees);
  - 100% federal financing of Short-Time Compensation (STC; work sharing) in states with existing programs and 50% federal financing for states that set up STC programs (up to the equivalent of 26 weeks of benefits for individuals); and
  - waiver of federal requirements regarding merit staffing for state UI programs on an emergency, temporary basis in response to COVID-19 (limited to certain temporary actions taken by states to quickly process UI claims, including rehiring former employees and temporary hiring).
- The Continued Assistance Act also provides a temporary option for states that have triggered off an EB period to opt to disregard the mandatory 13-week off period for weeks between November 1, 2020, and December 31, 2021. This authority can help states trigger back on to a 13-week or 2-week EB period more quickly if state unemployment rates increase (there would be no required 13-week off period).

### Mixed Earner Unemployment Compensation

The Continued Assistance Act also authorizes a \$100-a-week MEUC payment in addition to the \$300-a-week FPUC benefit in states that elect to participate. MEUC provides \$100 weekly for individuals who received at least \$5,000 in self-employment income in the most recent tax year (i.e., ending prior to the individual’s application for state UI benefits) and who receive a UI benefit other than PUA. MEUC is payable only in states that opt to administer the benefit for weeks of unemployment beginning on or after December 27, 2020, and ending on or before March 14, 2021 (March 13, 2021; March 14, 2021, in New York).

### Extensions of Additional UI Provisions

The Continued Assistance Act also extends the temporary authority for additional UI provisions first authorized under FFCRA (P.L. 116-127) and the CARES Act (P.L. 116-136). The authorities for the following UI provisions were generally extended through March 13, 2021 (March 14, 2021, in New York):

- waiver of interest payments and the accrual of interest on federal advances (loans) to states to pay regular UI benefits through temporary assistance for states with advances;
- 100% federal funding of Extended Benefits (EB);
- 50% federal funding for the first week of UI benefits in states with no waiting week (previously 100% federal funding under CARES Act—50% funding begins after the week ending December 26, 2020; December 27, 2020, in New York);
- 50% federal funding of state UI benefits based on service with reimbursing employers (i.e., state and local governments, Indian tribes, and nonprofit organizations,

### UI Program Integrity Measures

The Continued Assistance Act includes several program integrity measures, many of which are related to PUA eligibility. First, there are new documentation requirements for PUA claimants. Individuals filing a new PUA claim on or after January 31, 2021, must provide documentation of employment or self-employment within 21 days of application, or following the state deadline if later (with exceptions for good cause). Individuals who received PUA on or after December 27, 2020, are required to provide this documentation within 90 days, or within the state deadline if later (with exceptions for good cause). Second, for PUA claims filed on or after January 26, 2021, states must use administrative procedures to verify the identity of PUA applicants and provide timely payment, to the extent reasonable and practicable. Third, the Continued Assistance Act includes a new statutory requirement for weekly self-certification by claimants of COVID-19-related condition for weeks on or after January 26, 2021.

In addition, the Continued Assistance Act includes a new return to work reporting requirement for states. Beginning January 26, 2021, states must have a process for addressing work refusals, must have a method for employer reporting of work refusals, and must provide notifications to individuals related to work refusals.

### Additional Resource

Department of Labor, *Unemployment Insurance Program Letter 09-21*, December 30, 2020, at [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3831](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831).

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