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INSIGHT

States Opting Out of COVID-19 Unemployment Insurance (UI) Agreements

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In response to the recent recession caused by the Coronavirus Disease 2019 (COVID-19) pandemic, Congress created several temporary Unemployment Insurance (UI) programs through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), and extended these programs through P.L. 116-260 and P.L. 117-2. Recently, 25 states announced their intention to terminate their agreements to pay COVID-19 UI benefits.

The temporary, COVID-19 UI programs are authorized through September 4, 2021, and include

- the $300 weekly Federal Pandemic Unemployment Compensation (FPUC), which supplements all UI benefits (originally, FPUC was authorized at $600 a week under the CARES Act through July 25, 2020);
- Pandemic Emergency Unemployment Compensation (PEUC), which provides up to 49 weeks of additional UI benefits for individuals who exhaust regular Unemployment Compensation (UC) and are able to, available for, and actively seeking work; and
- Pandemic Unemployment Assistance (PUA), which provides up to 75 weeks of a temporary, federal UI program for individuals who are (1) not otherwise eligible for UI benefits (e.g., self-employed, independent contractors, gig economy workers); (2) unemployed, partially unemployed, or unable to work due to a specific COVID-19-related reason; and (3) not able to telework and are not receiving any paid leave.

Further, P.L. 117-2 authorized an additional, temporary UI benefit:

- Mixed Earner Unemployment Compensation (MEUC), which provides an additional $100 per week benefit augmentation for unemployed workers with previous earned income from both wage-and-salary jobs and self-employment who are receiving UC, Extended Benefit (EB) payments, or PEUC (but not PUA).

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Voluntary Agreements Between U.S. DOL and States to Administer COVID-19 UI Benefits

The statutory authority for these temporary UI benefits specifies that they are payable through voluntary agreements between the U.S. Department of Labor (DOL) at each state's option. The law requires states to provide at least a 30-day notice to DOL that they plan to terminate their agreements. Until recently, all states had signed agreements to administer FPUC and PEUC. Most states (excluding Idaho and South Dakota) had agreed to provide MEUC by amending their FPUC agreements.

The CARES Act requires that states sign agreements with DOL in order to administer PUA. According to DOL guidance, all signed PUA agreements contained the requirement to provide at least a 30-day notice before terminating PUA.

Other CARES Act Provisions Subject to Voluntary Agreements

In addition to DOL-state agreements to provide PEUC, PUA, FPUC, and MEUC, the CARES Act provides for temporary, voluntary cost-sharing agreements between DOL and states, including

1. 75% federal cost-share of UC benefits paid to former workers in state and local governments, Indian tribes, and certain nonprofit organizations (under permanent law, these former employers reimburse state UC programs for 100% of benefit costs);
2. 100% funding of the first week of UC if a state has no waiting week (100% state financed under permanent law); and
3. 100% federal funding for existing Short-Time Compensation (STC) programs (100% state financed under permanent law).

Recent State Announcements: Opting Out of COVID-19 UI Agreements

As of June 10, 2021, DOL had received notification from 25 states that they are terminating their agreements for at least some COVID-19 UI benefits. The effective termination dates range from June 12, 2021, to July 10, 2021, depending on the state. For weeks of unemployment beginning after the agreement's termination, the benefit(s) would no longer be available in the state. Some states include the termination of the temporary UI cost-sharing measures in their notices.

States assert several rationales for opting out of their agreements, including (1) work disincentive effects (i.e., the $300 weekly FPUC benefit coupled with regular UC payment may be greater than the workers' original paychecks), (2) decreased state unemployment rates, (3) an end to previous barriers to employment (e.g., no remaining industry shutdowns, full operation of childcare facilities), and (4) increased numbers of job openings (i.e., job openings that are equivalent to the number who are unemployed).

Listed below are the 25 states that formally notified DOL they were terminating their agreements to pay COVID-19 UI benefits (and the effective termination date):

- Alabama (6/19/21)
- Alaska (FPUC/MEUC only; 6/19/21)
- Arkansas (6/26/21)
- Arizona (FPUC/MEUC only; 7/10/21)
- Florida (FPUC/MEUC only; 6/26/21)
- Georgia (6/26/21)

- Idaho (6/19/21)
- Indiana (6/19/21)
- Iowa (6/12/21)
- Maryland (7/3/21)
- Mississippi (6/12/21)
- Missouri (6/12/21)
- Montana (6/26/21)
- Nebraska (6/19/21)
- New Hampshire (6/19/21)
- North Dakota (6/19/21)
- Ohio (FPUC/MEUC only; 6/26/21)
- Oklahoma (6/26/21)
- South Carolina (6/26/21)
- South Dakota (6/26/21)
- Tennessee (7/3/21)
- Texas (6/26/21)
- Utah (6/26/21)
- West Virginia (6/19/21)
- Wyoming (retroactively opted out of MEUC; 6/19/21)

Some states announced that they are replacing the federal COVID-19 UI benefits with back-to-work bonuses to be paid by Coronavirus Relief Fund (CRF) monies. These back-to-work bonuses provide a lump sum payment to individuals previously receiving UI benefits who are currently reemployed. For example, Montana announced up to $1,200 in reemployment bonuses.

Prior Termination of a DOL-State Agreement to Administer Temporary UI Benefits

Previous, temporary UI programs enacted in response to recessions were authorized using the same DOL-state voluntary agreement structure (e.g., the Emergency Unemployment Compensation (EUC08) program, which was authorized June 2008-December 2013 in response to the Great Recession). The only example of a state ending its voluntary agreement to pay temporary UI benefits prior to program expiration occurred in 2013. North Carolina terminated its EUC08 agreement after violating the EUC08 "nonreduction" rule, which made the availability of federally financed EUC08 benefits contingent on not actively changing the state's method of calculating UC benefits, if it would have decreased weekly benefit amounts. North Carolina enacted legislation in February 2013 with a provision to actively reduce UC weekly benefit amounts in the state. Effective on or after July 1, 2013, this state law provision violated the "nonreduction" rule and, therefore, terminated the EUC08 agreement between North Carolina and DOL. Outside of this example, there is no recent precedent for a state opting to terminate its voluntary agreement with DOL via state executive branch announcement, as under the current situation.

Additional Resources

CRS Report R46687, *Current Status of Unemployment Insurance (UI) Benefits: Permanent-Law Programs and COVID-19 Pandemic Response*

CRS Report R46789, *Unemployment Insurance: Legislative Issues in the 117th Congress*

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