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# Current Status of Unemployment Insurance (UI) Benefits: Permanent-Law Programs and COVID-19 Pandemic Response

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SUMMARY

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# Current Status of Unemployment Insurance (UI) Benefits: Permanent-Law Programs and COVID-19 Pandemic Response

The Unemployment Insurance (UI) system is constructed as a joint federal-state partnership, in which the Unemployment Compensation (UC) program and the UC benefit are the foundation of the UI system. The U.S. Department of Labor (DOL) provides oversight of state UC programs and the state administration of federal UI benefits. Although there are broad requirements under federal law regarding UC benefits and financing, the specifics are set out under each state's laws, resulting in 53 different UC programs operated in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. States operate their own UC programs and administer any temporary, federal UI benefits. A state UC program determines the weekly benefit amount and the number of weeks of UC available to unemployed workers. Most states provide up to 26 weeks of UC to eligible individuals who become involuntarily unemployed for economic reasons and meet state-established eligibility rules.

The UI system's two main objectives are to provide temporary and partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions. The two permanent-law UI benefits—UC and Extended Benefits (EB)—are countercyclical, with spending and weekly benefit payments that increase automatically during a recession. Congress often supplements these permanently authorized economic stabilization measures by enacting temporary UI benefit expansions during recessions. In response to the recent recession caused by the Coronavirus Disease 2019 (COVID-19) pandemic, Congress created several temporary UI programs through the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136); extended these programs through Division N, Title II, Subtitle A, of the Consolidated Appropriations Act, 2021 (P.L. 116-260; the Continued Assistance for Unemployed Workers Act of 2020, or "Continued Assistance Act"); and further extended them through Title IX, Subtitle A, of the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2):

- Federal Pandemic Unemployment Compensation (FPUC) provides a $300 per week supplement for all UI benefits for weeks of unemployment beginning on or after December 27, 2020. No FPUC benefits are payable after September 4, 2021 (September 5, 2021 in New York; for subsequent UI benefit expiration dates provided below, the benefit expiration date in New York falls one calendar day later, which is due to state definitions of *week*).
- Pandemic Emergency Unemployment Compensation (PEUC) provides a total of 49 additional weeks of federally financed UI benefits for individuals who exhaust state and federal UI benefits and are able to work, available for work, and actively seeking work, subject to COVID-19-related flexibilities, through September 4, 2021.
- Pandemic Unemployment Assistance (PUA) provides a total of 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. The PUA benefit is available through September 4, 2021.

Additionally, the Continued Assistance Act authorized an additional, temporary UI benefit:

- Mixed Earner Unemployment Compensation (MEUC) provides, at state option, a $100 per week benefit augmentation for unemployed workers with income from both wage-and-salary jobs and self-employment who are not currently receiving PUA. MEUC is available in most states for weeks of unemployment beginning on or after December 27, 2020. After September 4, 2021, no MEUC benefits are payable.

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# Unemployment Insurance: Wage Replacement and Automatic Economic Stabilization

The Unemployment Insurance (UI) system is constructed as a joint federal-state partnership providing temporary and partial wage replacement to involuntarily unemployed workers. The Unemployment Compensation (UC) program and the UC benefit provide the foundation of the UI system. Although there are broad requirements under federal law regarding UC benefits and financing, the specifics are set out under each state's laws, resulting in 53 different UC programs operated in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The U.S. Department of Labor (DOL) provides oversight of state UC programs and state administration of federal UI benefits. States operate their own permanent-law UC programs and also administer any temporary, federal UI benefits. Each state's UC laws determine the weekly benefit amount and the number of weeks of UC available to an unemployed worker. Most states provide up to 26 weeks of UC to eligible individuals who become involuntarily unemployed for economic reasons and meet state-established eligibility rules.

The UI system's main objectives are to provide temporary and partial wage replacement to involuntarily unemployed workers and to stabilize the economy during recessions.[1] The two permanently authorized UI programs—UC and Extended Benefits (EB)—provide weekly, countercyclical payments that increase automatically during a recession. The intent to provide economic stability is reflected in the UI system's funding and benefit structure. During economic expansions, states fund approximately 85%-90% of all UC expenditures—as almost all UC benefits are state-financed by state unemployment taxes. In comparison, federal UC expenditures are relatively small during these expansions (approximately 10%-15%) and are primarily made to the states via administrative grants financed by federal unemployment tax revenue.

When employment grows, state and federal UC tax revenues rise and spending on UC benefits falls because fewer workers are unemployed.[2] In a recession, UC tax revenue decreases and UC program spending increases as more workers lose their jobs and receive UC benefits. The increased amount of UC payments to unemployed workers mitigates the economic impact of their lost earnings by injecting additional funds into the economy.

To support the UC program's economic stabilization efforts during higher unemployment periods, federal law includes an automatic extension of the regular UC benefit through the permanently authorized Extended Benefit (EB) program. The UI system is designed to supplement the weeks of UC payments by automatically triggering the availability of up to an additional 13 or 20 weeks of EB payments. Triggering on to EB requires that a state meets certain unemployment thresholds (the state also has options to adopt certain additional unemployment triggers). In practice, the required EB trigger is set to such a high level of unemployment that the majority of states do not

[1] See, for example, President Franklin Roosevelt's remarks at the signing of the Social Security Act on August 14, 1935: "This law, too, represents a cornerstone in a structure which is being built but is by no means complete. It is a structure intended to lessen the force of possible future depressions. It will act as a protection to future Administrations against the necessity of going deeply into debt to furnish relief to the needy. The law will flatten out the peaks and valleys of deflation and of inflation. It is, in short, a law that will take care of human needs and at the same time provide the United States an economic structure of vastly greater soundness," available at http://www.ssa.gov/history/fdrstmts.html#signing.

[2] For a description of federal and state unemployment taxes, see CRS Report R44527, *Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA)*.

trigger onto EB in most recessions.[3] The weekly EB payment is the same as the underlying UC benefit amount, and thus, it also varies by state.

Congress often supplements these UI system stabilization efforts by enacting temporary UI benefit expansions—such as the benefits created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

### Temporary Federal Extensions of UI: Congressional Response to Recessions

Since the creation of the UI program in 1935, Congress has acted nine times—1958, 1961, 1971, 1974, 1982, 1991, 2002, 2008, and 2020—to create temporary additional UI benefits.[4] These temporary benefits extended the number of weeks an individual might claim UC benefits (ranging from an additional 6 weeks to 53 weeks) and included expiration dates for the additional benefits. Congress often extended the authorization of these temporary benefits as well as expanded and contracted the benefits as the labor market recovered from the recession. Some weeks of additional benefits were conditional on state economic conditions.[5] Temporary programs enacted in 2020 in response to the COVID-19 pandemic are discussed in the "Temporary COVID-19 Pandemic UI Programs" section of this report.

During the COVID-19 pandemic-related recession, individuals may have received benefits under multiple, temporarily and permanently authorized UI programs. **Figure 1** at the end of this report provides the flow of all available UI benefits from March 13, 2021 through September 4, 2021.

## Permanently Authorized UI Programs: UC and EB

As noted, there are two permanently authorized benefit programs (UC and EB) in the UI system. In general, when eligible workers lose their jobs, the joint federal-state UC program may provide up to 26 weeks (in most states) of income support through weekly UC benefit payments. UC benefits may be extended for up to 13 weeks or 20 weeks by the EB program, depending on state economic conditions and state law options.[6] For example, for the week of March 21, 2021, 13 jurisdictions were in a regular EB period.[7] Additionally, three states were triggered on a high

[3] Janet L. Norwood et al., *Collected Findings and Recommendations: 1994-1996*, Advisory Council on Unemployment Compensation, Washington, DC, 1996, pp. 2-4. For additional information on EB law changes over time, see Table A-1 in CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*.

[4] See CRS Report RL34340, *Extending Unemployment Compensation Benefits During Recessions*, for details of the congressional response to recessions from 1980 through 2014. The recession that began in January 1980 was the only recession since 1958 that did not have a temporary, federal UI program; however, the EB program had a national trigger at that time (which was removed, effective August 13, 1981, by P.L. 97-35, the Omnibus Budget Reconciliation Act of 1981) and, thus, EB was available for all states.

[5] Ibid., see "Table A-1. Summary of Extended Unemployment Compensation Programs."

[6] Certain groups of workers may qualify for income support from additional UI programs, including Trade Adjustment Assistance (TAA), Reemployment Trade Adjustment Assistance (RTAA), and Disaster Unemployment Assistance (DUA). Workers who lose their jobs because of international competition may qualify for income support through the TAA program or the RTAA (for certain workers aged 50 or older). Workers may be eligible to receive DUA benefits if they are not eligible for regular UC and their unemployment may be directly attributed to a declared natural disaster. For more information on the TAA and RTAA programs, see CRS In Focus IF10570, *Trade Adjustment Assistance for Workers (TAA)*.

[7] Alaska, Colorado, Connecticut, the District of Columbia, Illinois, Massachusetts, Michigan, Nevada, New Mexico, Pennsylvania, Rhode Island, Texas, and the U.S. Virgin Islands. For the current EB trigger notice, select "Extended

unemployment period (HUP) where up to 20 weeks of EB payments are available.[8] (For an overview of EB, see the "Extended Benefits" section.)

## Unemployment Compensation

The Social Security Act of 1935 (P.L. 74-271) authorizes the joint federal-state UC program to provide weekly unemployment benefits. Most states provide up to a maximum of 26 weeks of UC benefits.[9] Although federal laws and regulations provide broad guidelines on UC benefit coverage, eligibility, and determination, the specifics regarding UC benefits are determined by each jurisdiction. This results in essentially 53 different programs.[10]

### Eligibility

In general, UC eligibility is based on attaining qualified wages and employment in covered work over a 12-month period (called a *base period*) prior to unemployment. All states require a worker to have earned a certain amount of wages or to have worked for a certain period of time (or both) within the base period to be eligible to receive UC benefits. The methods states use to determine eligibility vary greatly. In addition, each state's UC law requires individuals to have lost their jobs through no fault of their own, and recipients must be able to work, available for work, and actively seeking work.[11] These eligibility requirements help ensure that UC benefits are directed toward workers with recent labor market experience who are unemployed because of economic conditions.[12] Self-employed workers—potentially including independent contractors and gig economy workers—are the largest group of workers generally excluded from eligibility for UC benefits.[13]

### Benefit Amount

UC benefit calculations are generally based on wages for covered work over the 12-month base period. Most state benefit formulas replace half of a claimant's average weekly wage up to a weekly maximum. All states disregard some earnings during unemployment as an incentive to

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Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

[8] California, New Jersey, and New York. For the current EB trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

[9] Former federal workers may be eligible for unemployment benefits through the Unemployment Compensation for Federal Employees (UCFE) program, 5 U.S.C. §§8501-8508. Former U.S. military servicemembers may be eligible for unemployment benefits through the Unemployment Compensation for Ex-Servicemembers (UCX) program, 5 U.S.C. §§8521-8525. For more information on the Unemployment Compensation for Ex-Servicemembers (UCX) program, see CRS Report RS22440, *Unemployment Compensation (Insurance) and Military Service*. Both UCFE and UCX benefit and duration amounts are based upon the underlying state UC laws.

[10] The District of Columbia, Puerto Rico, and the U.S. Virgin Islands are considered states under federal UI law.

[11] In some cases a worker may be eligible for benefits based upon quitting a job for a *good cause* reason. In all states, individuals who leave their work voluntarily must meet the state's good cause requirements if they are not to be disqualified from receiving UC. In many states, good cause is explicitly restricted to reasons connected with the work, attributable to the employer, or involving fault on the part of the employer. (For those states, see Table 5.1 in U.S. Department of Labor (DOL), *2020 Comparison of State Unemployment Insurance Laws*, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/nonmonetary.pdf.)

[12] Summary details on various aspects of state UC programs, including eligibility requirements, are provided in DOL, *2020 Comparison of State Unemployment Insurance Laws*, available at https://oui.doleta.gov/unemploy/comparison/2020-2029/comparison2020.asp.

[13] For additional information on gig economy workers, see CRS Report R44365, *What Does the Gig Economy Mean for Workers?*.

take short-term or part-time work while searching for a permanent position. States also disregard earnings in situations of partial unemployment, in which individuals have their work hours reduced (rather than being laid off). Generally, in partial unemployment situations, a worker's net UC payment equals the difference between the underlying UC weekly benefit amount and a proportion of earnings (after a small disregard).[14]

There is considerable variation by state in the weekly UC benefit amounts. As of July 2020, the maximum weekly benefit amount ranged from $235 (Mississippi) to $823 (Massachusetts). In states that provide dependents' allowances, the maximum benefit was $1,234 (Massachusetts, with 16 dependents).[15] The 12-month average, national weekly benefit amount was $319 as of January 2021.[16]

## Benefit Duration

Until 2011, all state UC programs offered at least 26 weeks as the maximum duration available in the state. Nothing in federal law requires states to set their UC benefit duration maximum at 26 weeks. Thus, states have the discretion to offer fewer than 26 weeks as the maximum or to set their own higher UC benefit durations via their state UC laws.[17] (Two states provide more than 26 weeks of UC benefits: Montana provides up to 28 weeks[18] and Massachusetts provides up to 30 weeks, depending on local economic conditions.[19]) Currently, there are 10 states with decreased maximum UC durations,[20] but 3 of these states have temporarily restored their UC maximum durations to 26 weeks in response to the COVID-19 pandemic:

- Alabama: 14 weeks[21] (14-20 weeks, variable duration based on state unemployment conditions);
- Arkansas: 16 weeks;
- Florida: 19 weeks[22] (12-23 weeks, variable duration based on state unemployment conditions);

[14] For information on earnings disregards and partial unemployment, see Table 3.8 in DOL, *2020 Comparison of State Unemployment Insurance Laws*, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/monetary.pdf.

[15] See DOL, *Significant Provisions of State Unemployment Insurance Laws, Effective July 2020*, available at https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/July2020.pdf. Dependents' allowances are amounts paid on top of the weekly benefit amount in some states, using each state's definition of "dependent."

[16] DOL provides monthly state and national UC program data at https://oui.doleta.gov/unemploy/claimssum.asp.

[17] In the early decades of the UC program, there was more variation in the maximum duration of UC benefits across states, which also tended to be lower than 26 weeks. Yet since the 1960s—and until the 2011 state law changes—all states had chosen to provide up to at least 26 weeks of UC benefits to eligible individuals. Puerto Rico is an exception to this pattern of state convergence on 26 weeks as the maximum UC benefit duration in the 1960s. When it originally entered the federal-state UC system in 1961, Puerto Rico provided a lower maximum UC benefit duration (i.e., up to 16 weeks in 1961 and then up to 20 weeks for most of the 1970-1990 period). Puerto Rico did not provide up to 26 weeks of UC benefits until 1991. For more information on state UC benefit duration, including changes over time, see DOL's report series on "Significant Provisions of State UI Laws," available at https://oui.doleta.gov/unemploy/statelaws.asp#RecentSigProLaws.

[18] When EB benefits are available in Montana, the total duration of UC and EB is capped at either 39 weeks (26 + 13) or 46 weeks (26 + 20).

[19] When EB benefits are available in Massachusetts, the maximum duration of UC benefits is capped at 26 weeks.

[20] See DOL, "Maximum Potential Weeks of UI Benefits for New Claimants," available at https://oui.doleta.gov/unemploy/docs/potential_weeks_map.pdf.

[21] Alabama also provides a five-week "training extension" for certain UC claimants; see https://labor.alabama.gov/newsfeed/news_covid19/UC%20program%20flowchart%20graphic.pdf.

[22] Beginning January 1, 2021, for new UC claims filed, the maximum duration is 19 weeks. Beneficiaries who began

- Georgia: temporarily restored to 26 weeks due to the pandemic[23] (14-20 weeks, variable duration based on state unemployment conditions);
- Idaho: 22 weeks[24] (20-26 weeks, variable duration based on state unemployment conditions);
- Kansas: temporarily restored to 26 weeks due to the pandemic[25] (16-26 weeks, variable duration based on state unemployment conditions);
- Michigan: 20 weeks;[26]
- Missouri: 20 weeks;
- North Carolina: 16 weeks[27] (12-20 weeks, variable duration based on state unemployment conditions); and
- South Carolina: 20 weeks.

### Financing

The UC program is financed by federal taxes under the Federal Unemployment Tax Act (FUTA) and by state payroll taxes under the State Unemployment Tax Acts (SUTA).[28] The 0.6% effective net FUTA tax paid by employers on the first $7,000 of each employee's earnings (no more than $42 per worker per year) funds federal and state administrative costs, loans to insolvent state UC accounts, the federal share (50%) of EB payments under permanent law, and state employment services. States levy their own payroll taxes on employers to fund regular UC benefits and the state share of the EB program under permanent law. Federal law requires that the SUTA tax rate of an employer be based on the amount of UC benefits paid to former employees. Generally, the more UC benefits paid to its former employees, the higher the tax rate of the employer—up to a maximum established by state law.

## Extended Benefits

Federal law includes an automatic extension of the regular UC benefit with the permanently authorized EB program if specific economic conditions exist at the state level. The EB program was established by the Federal-State Extended Unemployment Compensation Act of 1970 (P.L. 91-373; 26 U.S.C. §3304, note) and may provide up to 13 or 20 weeks of additional weeks of UI

receiving UC in Florida prior to January 1, 2021, are limited to a total of 12 weeks of benefits. See https://floridajobs.org/news-center/DEO-Press/2021/01/06/florida-department-of-economic-opportunity-provides-weekly-reemployment-assistance-update—january-5.

[23] See https://dol.georgia.gov/blog-post/2020-03-26/emergency-rules-adopted-03-26-20.

[24] Current information on Idaho is from an email to CRS from the Idaho Department of Labor, November 9, 2020.

[25] See https://www.dol.ks.gov/docs/default-source/home-page-news/2020/unemployment-insurance-benefits-expansion-to-26-weeks.pdf?Status=Temp&sfvrsn=6c76881f_2.

[26] Michigan had temporarily restored its state UC duration back up to 26 weeks due to the pandemic until the end of calendar year 2020. See Michigan Department of Labor and Economic Opportunity, "Governor Whitmer Signs Bipartisan Bills Extending Unemployment Benefits to 26 Weeks, Calls on the Republican Legislature to Make Them Permanent," press release, October 20, 2020, https://www.michigan.gov/leo/0,5863,7-336-94422_97241_98585_99416_98657-542855—,00.html.

[27] Beginning January 3, 2021 for new UC claims filed, the maximum duration is 16 weeks. Beneficiaries who began receiving UC in North Carolina before January 3, 2021 are limited to a total of 12 weeks of benefits. See https://des.nc.gov/need-help/covid-19-information/covid-19-information-individuals.

[28] For information on FUTA, see CRS Report R44527, *Unemployment Compensation: The Fundamentals of the Federal Unemployment Tax (FUTA)*.

benefits. As of March 21, 2021, 13 jurisdictions were in a regular EB period and provided up to 13 weeks of EB.[29] Additionally, three states were triggered on a HUP where up to 20 weeks of EB payments are available.[30]

## Extended Benefit Triggers

The EB program is active, or triggered on, when a state's three-month general unemployment rate (Total Unemployment Rate, TUR) or its programmatic Insured Unemployment Rate (IUR) meets certain thresholds.[31] Under federal EB law, all states must pay up to 13 weeks of EB if the IUR for the previous 13 weeks is at least 5%, and is 120% of the average of the rates for the same 13-week period in each of the two previous years. Additionally, states may choose to enact up to two other optional thresholds. (States may choose one, two, or none.) If the state chooses one or more of the EB trigger options, it would provide the following:

- Option 1—based upon the IUR
  - up to an additional 13 weeks of benefits if the state's IUR is at least 6%, regardless of previous years' averages.
- Option 2—based upon the TUR
  - up to an additional 13 weeks of benefits if the state's TUR is at least 6.5% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years;
  - up to an additional 20 weeks of benefits if the state's TUR is at least 8% and is at least 110% of the state's average TUR for the same 13 weeks in either of the previous two years (this is designated as a HUP for EB).

When a state triggers off of an EB period, all EB benefit payments in the state cease immediately, regardless of individual entitlement.[32] That is, EB benefits are not phased out (grandfathered) when a state triggers off the program.[33]

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[29] Alaska, Colorado, Connecticut, the District of Columbia, Illinois, Massachusetts, Michigan, Nevada, New Mexico, Pennsylvania, Rhode Island, Texas, and the U.S. Virgin Islands. For the current EB trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

[30] California, New Jersey, and New York. For the current EB trigger notice, select "Extended Benefits Trigger Notice" at https://oui.doleta.gov/unemploy/claims_arch.asp.

[31] The total unemployment rate (TUR) is the three-month average of the ratio of unemployed workers to all workers (employed and unemployed) in the labor market. The TUR is essentially a three-month average version of the unemployment rate published by the Bureau of Labor Statistics (BLS) and based on data from the BLS's monthly Current Population Survey (CPS). The insured unemployment rate (IUR) is the ratio of UC claimants divided by individuals in UC-covered jobs. The IUR uses a different base of workers in its calculations than the TUR. The IUR excludes several groups used in TUR calculations: self-employed workers, unpaid family workers, workers in certain not-for-profit organizations, and several other (primarily seasonal) categories of workers. In addition to those unemployed workers whose last jobs were in the excluded employment category, the IUR excludes the following: those who have exhausted their UC benefits (even if they are receiving EB benefits); new entrants or reentrants to the labor force; disqualified workers whose unemployment is considered to have resulted from their own actions rather than from economic conditions; and eligible unemployed persons who do not file for benefits. As a result, a state's IUR is often calculated to be much lower than its TUR.

[32] EB benefits on interstate claims are limited to two extra weeks unless *both* the worker's state of residence and the worker's state of previous employment are in an EB period.

[33] The Continued Assistance Act (P.L. 116-260) provided a temporary option for states that have triggered off an EB period to disregard the mandatory 13-week off period for weeks between November 1, 2020, and December 31, 2021, if state law allows.

## Eligibility and Benefit Amount

The EB benefit amount is equal to the eligible individual's weekly regular UC benefit. The EB program imposes federal restrictions on individual eligibility for EB beyond the state requirements for regular UC. The EB program requires that a worker make a "systematic and sustained" work search. Furthermore, the worker may not receive benefits if he or she refused an offer of *suitable* work, which is defined as "any work within such individual's capabilities."[34] In addition, claimants must have worked at least 20 weeks of full-time insured employment (or the equivalent as defined by the state) in insured wages during their base period.

## EB Financing

Under permanent law, FUTA revenue finance 50% of the EB payments and 100% of EB administrative costs. States fund the other half 50% of EB benefit costs, under permanent law, through their SUTA revenue.

### *Temporary EB Financing Changes*

Section 4105 of P.L. 116-127, the Families First Coronavirus Response Act (FFCRA), as amended, temporarily provides 100% federally financed EB (with the exception of state and local employees) for states that receive both halves of the emergency administrative grants authorized under FFCRA.[35] The UI provisions in Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (P.L. 116-260; the Continued Assistance for Unemployed Workers Act of 2020, or "Continued Assistance Act") extended the authority for this 100% federal financing of EB through March 13, 2021.[36] The UI provisions in the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) further extend this authority through September 4, 2021.[37]

### *Temporary Adoption of Optional EB Triggers Based Upon 100% Federal Financing for EB*

Some states have reacted to this temporary 100% federal financing by enacting temporary EB trigger options that remain in place for the duration of the increased federal cost share. According

[34] State UC programs have their own definitions related to work search and refusal of suitable work. See Tables 5.16 and 5.18 in DOL, Employment and Training Administration (ETA), *2020 Comparison of State Unemployment Insurance Laws*, available at https://oui.doleta.gov/unemploy/pdf/uilawcompar/2020/nonmonetary.pdf.

[35] Section 4102(a) of FFCRA provided up to a total of $1 billion in "emergency administrative grants" to states in calendar year 2020. Half of each state's share was available if the state met certain requirements related to UC eligibility notifications and claims access. The second half of each state's share was available if a state qualified for the first half and experienced at least a 10% increase in UC claims over the previous calendar year and met certain other requirements related to easing UC eligibility requirements for individuals affected by COVID-19. Additionally, there were reporting requirements to DOL and committees of jurisdiction within one year for states that receive these grants. DOL published the state shares of these emergency administrative grants in UIPL No. 13-20, "Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020," March 22, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634. As of June 11, 2020, according to DOL, all states met the statistical criteria for receiving these FFCRA grants (see https://oui.doleta.gov/unemploy/pdf/IC3MOmarch.pdf). All states requested their full allotment of these FFCRA grants by September 30, 2020.

[36] Through March 14, 2021, in New York. For the purposes of UI programs and benefits, New York defines *week* as Monday to Sunday; every other state defines *week* as Sunday to Saturday. Therefore, the benefit expiration date in New York falls one calendar day later than in other states.

[37] Through September 5, 2021, in New York.

to DOL, 13 states have adopted the more responsive TUR trigger, but authorized a sunset for their TUR triggers related to availability of the 100% federal funding of EB.[38]

# Temporary COVID-19 Pandemic UI Programs

The COVID-19 pandemic dramatically disrupted the economy, as many businesses reduced operations and consumer demand shifted away from in-person commerce. The sharp fall in economic activity translated into massive and widespread employment loss. Recessions generally are a difficult time to find work, and the increased workplace hazards created by the COVID-19 pandemic have further limited jobseekers' options for employment.

Responding to the COVID-19 pandemic and the resulting economic recession, the 116th Congress created several new temporary UI benefits for unemployed workers through the CARES Act (P.L. 116-136). These temporary CARES Act UI programs (1) augmented all UI benefits, (2) created additional weeks of temporary benefits, and (3) expanded coverage to new groups of workers through a new benefit. The Continued Assistance Act (P.L. 116-260) subsequently extended the authorization of these programs. See **Table 1** for the current expiration dates of temporary UI programs under the Continued Assistance Act. **Figure 1** displays the flow of all UI benefits available under permanent law and the temporary UI benefits under the Continued Assistance Act.

## UI Benefit Augmentation: Federal Pandemic Unemployment Compensation (FPUC; Currently $300 a Week)

Section 2104 of the CARES Act originally created a temporary, additional, federally financed $600-a-week FPUC benefit that augmented most weekly UI benefits, including UC, Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), EB, Disaster Unemployment Assistance (DUA), Short-Time Compensation (STC), Trade Readjustment Allowance (TRA), and Self Employment Assistance (SEA).[39] When the $600 weekly FPUC benefit was available, an eligible UI claimant would have received both the UI benefit plus the $600 each week. Only one $600 FPUC benefit was payable to an eligible UI claimant for any given week. That temporary $600 weekly augmentation of UI benefits terminated the week ending July 25, 2020.

The Continued Assistance Act reauthorized and reestablished the temporary FPUC benefit at a lower amount of $300 per week for weeks of unemployment beginning after December 26, 2020, and ending on or before March 14, 2021.[40] ARPA extends the Continued Assistance Act's

[38] According to DOL, these states are California, Colorado, Delaware, the District of Columbia, Georgia, Illinois, Kentucky, Massachusetts, Michigan, Nevada, New York, Ohio, and Texas. Some states have cited the specific federal law in their sunset date, while other states have used a specific date that aligns with an upcoming expiration of the 100% federal financing of EB. Texas's EB TUR trigger statute requires that if 100% federal financing of EB is available, then Texas must promulgate a regulation to use it (based on DOL/ETA email communication with authors, January 16, 2021).

[39] For information on TRA, see CRS Report R44153, *Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015*. For information on SEA, see CRS Report R41253, *The Self-Employment Assistance (SEA) Program*.

[40] For DOL guidance on the FPUC extension in the Continued Assistance Act, see DOL, ETA, "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," UIPL No. 15-20, Change 3, January 5, 2021,

reauthorization of FPUC at $300 per week through weeks of unemployment ending on or before September 6, 2021. After September 4, 2021, no FPUC benefits are payable.[41]

While the $300 weekly FPUC benefit is available, an eligible UI claimant would receive both the UI benefit plus the $300 each week. Only one $300 FPUC benefit is payable to an eligible UI claimant for any given week. FPUC income is required to be disregarded for the purposes of Medicaid and the Children's Health Insurance Program (CHIP). During the FPUC authorization period, states are prohibited from reducing the UC benefit amount or duration.

For an explanation of the previously authorized $600-a-week version of FPUC as well as the now-concluded $300 Lost Wages Assistance (LWA) program authorized by a Presidential memorandum, see the **Appendix**.

## Additional Weeks of UI: Pandemic Emergency Unemployment Compensation (PEUC; Currently 49 Weeks)

PEUC provides additional weeks of federally financed UI benefits for individuals who exhaust state and federal UI benefits and are able to work, available for work, and actively seeking work, subject to COVID-19-related flexibilities. PEUC was 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 extended the authorization for PEUC through weeks of unemployment ending on or before March 13, 2021.[42] In addition, for weeks of unemployment beginning December 26, 2020,[43] the Continued Assistance Act authorized 11 additional weeks of PEUC benefits (not retroactive[44])—for a total of 24 weeks of PEUC.[45]

The Continued Assistance Act created a new requirement that individuals receiving EB must exhaust any remaining EB eligibility prior to being eligible to receive the additional weeks of PEUC authorized under the act.[46]

ARPA authorizes 29 additional weeks of PEUC benefits payable with respect to weeks of unemployment beginning March 14, 2021 (not retroactive), and extends the authorization for PEUC through weeks of unemployment ending on or before September 6, 2021. The new PEUC expiration date effectively limits PEUC benefits to no more than an additional 25 weeks and a

https://wdr.doleta.gov/directives/corr_doc.cfm?docn=6122.

[41] September 5, 2021, in New York.

[42] March 14, 2021, in New York.

[43] December 27, 2020, in New York.

[44] *Not retroactive* refers here, and throughout this report, to the fact that these additional weeks were payable for weeks of unemployment only prospectively, or after enactment. The additional weeks of benefits were not payable for weeks of unemployment prior to enactment of the act.

[45] The Continued Assistance Act also created a phase-out period for PEUC (since removed by ARPA). In the now-removed phase-out period, individuals who were receiving PEUC at the expiration of the program, had not exhausted available weeks of PEUC, and remained otherwise eligible were eligible for PEUC benefits under the Continued Assistance Act until April 10, 2021.

[46] For DOL guidance on the PEUC extension in the Continued Assistance Act, see DOL, ETA, "Continued Assistance for Unemployed Workers Act of 2020-Pandemic Emergency Unemployment Compensation (PEUC) Program: Extension, Transition Rule, Increase in Total Benefits, and Coordination Rules," UIPL No. 17-20, Change 2, December 31, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=9291.

cumulative total of 49 weeks. There is no phase-out period authorized under ARPA. Thus, no PEUC benefits are payable after September 4, 2021.[47]

ARPA also maintained the same requirement that individuals receiving EB must exhaust any remaining EB eligibility prior to being eligible to receive the additional weeks of PEUC authorized under ARPA.[48]

## Expanded UI Coverage: Pandemic Unemployment Assistance (PUA, Currently 75 Weeks)

PUA is 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. Under the CARES Act, PUA provided up to 39 weeks of benefits for weeks of unemployment ending December 26, 2020.[49] The Continued Assistance Act extended the authorization for PUA through weeks of unemployment ending on or before March 13, 2021.[50] In addition, for weeks of unemployment beginning December 26, 2020,[51] the act also authorized 11 additional weeks of PUA benefits (not retroactive)—for a total of 50 weeks of PUA.[52]

The Continued Assistance Act provided a new deadline for the backdating of PUA claims (previously, PUA claims could be backdated to February 2, 2020): initial applications for PUA filed after December 27, 2020, may not be backdated earlier than December 1, 2020.[53]

The Continued Assistance Act also included additional measures related to PUA, including (1) authority for states to waive recovery of PUA overpayments in cases of non-fault 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 from claimants and for other PUA program integrity measures (as described in CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*).[54]

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[47] September 5, 2021.

[48] For DOL guidance on the UI provisions in ARPA, including the PEUC extensions, see DOL, ETA, "American Rescue Plan Act of 2021 (ARPA)—Key Unemployment Insurance (UI) Provisions," UIPL No. 14-21, March 15, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669.

[49] December 27, 2020, in New York.

[50] March 14, 2021, in New York.

[51] December 27, 2020, in New York.

[52] The Continued Assistance Act created a phase-out period for PUA (since removed by ARPA). In the now-removed phaseout, individuals who were receiving PUA at the end of that program expiration, had not exhausted available weeks of PUA, and remained otherwise eligible were eligible for PUA benefits until April 10, 2021.

[53] The Continued Assistance Act included a hold harmless provision such that states may continue to pay PUA benefits for up to four weeks of unemployment for individuals who had previously exhausted PEUC and are receiving PUA but are eligible for the additional weeks of PEUC created under this act. After four weeks, states must move claimants eligible for additional weeks of PEUC back to PUA. According to DOL guidance, "recognizing the unique circumstances states face and the number and complexity of UI programmatic changes that states must swiftly implement, should a state determine that it will not be able to transition individuals from PUA back to PEUC in that timeframe, the state must contact the appropriate ETA Regional Office to determine the earliest date that the state will be able to implement this transition," UIPL No. 9-21, p. 8.

[54] For DOL guidance on the PUA extension and additional PUA measures in the Continued Assistance Act, see DOL, ETA, "Continued Assistance to Unemployed Workers Act of 2020—Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes," UIPL No. 16-20, Change 5, January 8, 2021,

ARPA authorizes 29 additional weeks of PUA benefits payable with respect to weeks of unemployment beginning March 14, 2021 (not retroactive), and extends the authorization for PUA through weeks of unemployment ending on or before September 6, 2021. The new PUA expiration date effectively limits PUA benefits to no more than an additional 25 weeks and a cumulative total of 75 weeks.[55] There is no phase-out period authorized under ARPA. Thus, no PUA benefits are payable after September 4, 2021.[56]

### UC and EB Offset PUA

If an individual has exhausted all available entitlement to UC, PEUC, and EB, he or she may be eligible to collect PUA if the underlying cause of unemployment is attributable to a PUA-covered circumstance (e.g., specific COVID-19-related condition). However, the 75-week entitlement to PUA is reduced by the weeks of UC and EB received. (PEUC does not reduce the number of PUA weeks available.)

## Additional UI Augmentation: Mixed Earner Unemployment Compensation (MEUC; $100 a week)

The Continued Assistance Act also authorized a newly created $100-a-week MEUC payment (in states that elect to participate in MEUC) in addition to the $300-a-week FPUC benefit.[57] MEUC addresses an issue raised by potential differences in benefits calculated under regular state UI programs and those calculated under PUA. Specifically, the PUA benefit was created with a higher minimum benefit than each state's UI minimum benefit (the minimum PUA benefit is 50% of the average state UI benefit amount). Because PUA is not available to anyone who qualifies for state UI (or any other federal UI benefit), there may be a concern related to perceived equity for unemployed workers who would qualify for PUA with a higher weekly benefit if they were not also eligible for regular state UI benefits. MEUC addresses this issue by increasing the amount of state UI benefits for individuals in this situation.

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 13, 2021.[58]

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https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6973.

[55] ARPA included a hold harmless provision such that states may continue to pay PUA benefits for up to six weeks of unemployment for individuals who had previously exhausted PEUC and are receiving PUA but are eligible for the additional weeks of PEUC created under this act. After six weeks, states must move claimants eligible for additional weeks of PEUC back to PUA. According to DOL guidance, "Based on the experience of states implementing a similar provision with the Continued Assistance Act, the Department considers six weeks of unemployment commencing after the date of enactment of ARPA (week ending April 24, 2021) an appropriate period of time for states to implement the additional amounts of PEUC and move an individual from their PUA claim back to PEUC." UIPL No. 14-21, p. 7.

[56] September 5, 2021.

[57] Other bills introduced in the 116th Congress (S. 4442, S. 4935, H.R. 925, and H.R. 7691) also included provisions for increasing the regular UI benefits of mixed earners.

[58] March 14, 2021, in New York. As of March 5, 2021, according to DOL, all states except South Dakota and Idaho have opted to pay MEUC. Mississippi signed an agreement later than other states and will pay out MEUC for weeks of unemployment beginning on or after January 3, 2021. For DOL guidance on the MEUC authority in the Continued Assistance Act, see DOL, ETA, "Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and

ARPA extends the MEUC authority at $100 per week in participating states until September 4, 2021.[59]

# Coordination of UI Benefits

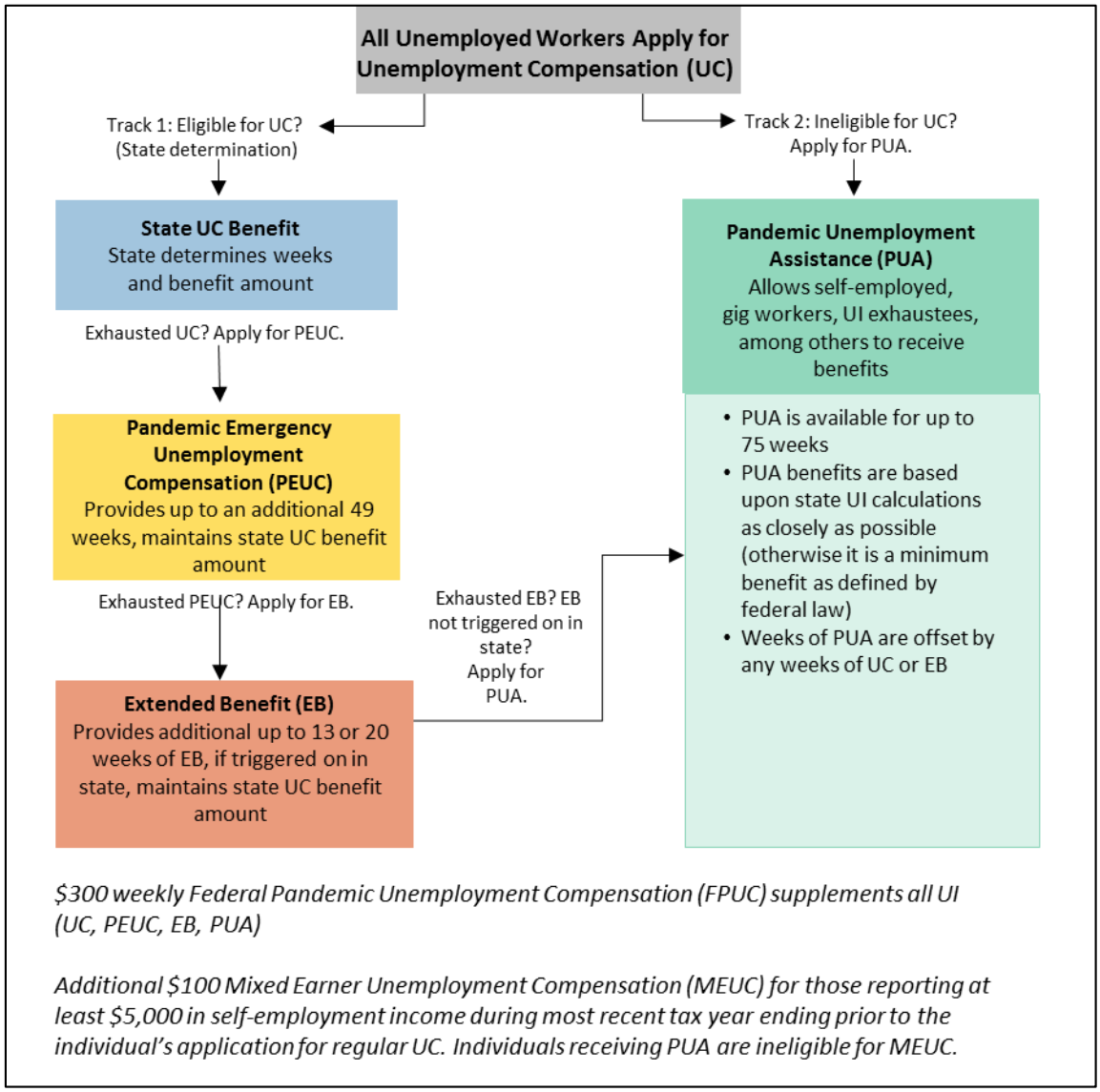
During a period of unemployment, individuals may be eligible for benefits under multiple, currently authorized UI programs. **Figure 1** provides the statutory order of the flow of UI benefits from March 13, 2021, through September 4, 2021. This flow is contingent on an individual meeting all eligibility criteria for the respective programs. It is also contingent on a state having an agreement with DOL to administer the programs authorized under the CARES Act, as amended by the Continued Assistance Act and ARPA.

Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions," UIPL No. 15-20, Change 3, January 5, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=6122.

[59] September 5, 2021, in New York.

**Figure 1. Current Coordination of the Flow of UI Benefits Under the American Rescue Plan Act of 2021**

(March 13, 2021, through September 4, 2021)




**Source:** CRS analysis based on the UI provisions in Title IX, Subtitle A, of the American Rescue Plan Act of 2021 (P.L. 117-2) and DOL guidance.

**Notes:** This coordination flow is contingent on an individual meeting all eligibility criteria for the respective programs. It is also contingent on a state having an agreement with DOL to administer each benefit.

Transition rules: (1) Individuals who were receiving EB for the week ending December 26, 2020, were required to remain on EB until those benefits were exhausted; after that point, they may have been eligible for additional PEUC if available. (2) Individuals who were receiving EB for the week ending March 13, 2021, must remain on EB until those benefits are exhausted; after that point, they may be eligible for additional PEUC if available.

PUA is the last payer. All other UI benefits must be exhausted or unavailable. States have a temporary, six-week authorization to continue to pay PUA rather than PEUC if an individual was receiving PUA for the week ending March 13, 2021.

FPUC, MEUC, PUA, and PEUC are authorized through September 4, 2021 (September 5, 2021, for New York).

As of March 5, 2021, South Dakota and Idaho did not sign agreements to offer MEUC, according to DOL.

**Table 1. Temporary UI Benefit Expirations Under the American Rescue Plan Act of 2021**

| Benefit | Expiration Date | Phaseout Date |
|---|---|---|
| Federal Pandemic Unemployment Compensation (FPUC) | September 3, 2021 (September 4, 2021, in New York) | No phaseout |
| Pandemic Emergency Unemployment Compensation (PEUC) | September 3, 2021 (September 4, 2021, in New York) | No phaseout |
| Pandemic Unemployment Assistance (PUA) | September 3, 2021 (September 4, 2021, in New York) | No phaseout |
| Mixed Earner Unemployment Compensation (MEUC) | September 3, 2021 (September 4, 2021, in New York) | No phaseout |

**Source:** CRS analysis of P.L. 117-2.

**Notes:** All UI benefits are paid with respect to a week of unemployment, subsequent to the actual week of unemployment. Thus, the expiration dates refer to the end of the last payable week of unemployment. Benefit payments for this last week of unemployment will be issued to individuals after the expiration dates.

# Appendix. Expired Programs: $600 FPUC, $300 LWA

## $600 Weekly Federal Pandemic Unemployment Compensation

Section 2104 of the CARES Act created a temporary, additional, federally financed $600 benefit that augmented weekly UI benefits, including UC, PUA, PEUC, EB, DUA, STC, TRA, and SEA.[60] This original FPUC was payable for weeks of unemployment beginning after a state signed an agreement through weeks ending on or before July 31, 2020.[61] When the $600 weekly FPUC benefit was available, an eligible UI claimant would have received both the UI benefit plus the $600 each week. Only one $600 FPUC benefit was payable to an eligible UI claimant for any given week. For most states, this meant that FPUC payments under the CARES Act ended on July 25, 2020.[62]

Shortly after the $600 weekly FPUC expired, LWA provided $300 in weekly benefits to some UI beneficiaries through September 5, 2020.[63] See the section below for details. Approximately four months later, the Continued Assistance Act reauthorized FPUC at a lower $300 weekly amount. See the section "UI Benefit Augmentation: Federal Pandemic Unemployment Compensation (FPUC; Currently $300 a Week)" for additional details on this reauthorized FPUC benefit.

FPUC income was required to be disregarded for the purposes of Medicaid and CHIP.

## $300 Weekly Lost Wages Assistance

On August 8, 2020, President Donald Trump issued a presidential memorandum authorizing other needs assistance (ONA) under Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; P.L. 93-288, as amended; 42 U.S.C. §5174(e)(2)) for lost wages.[64] As described in Federal Emergency Management Agency (FEMA) guidance,[65] this LWA program provided grants to states to supplement the weekly benefits of certain eligible UI claimants in participating states, subject to a cost-sharing requirement.[66]

LWA grants were paid as a $300-per-week supplement in entirely federal funds to individuals with underlying weekly UI benefit amounts of at least $100, or, if a state chose to contribute an

[60] For information on TRA, see CRS Report R44153, *Trade Adjustment Assistance for Workers and the TAA Reauthorization Act of 2015*. For information on SEA, see CRS Report R41253, *The Self-Employment Assistance (SEA) Program*.

[61] A number of state laws have provisions for extending the potential duration of benefits during periods of high unemployment for individuals in approved training who exhaust benefits, or for a variety of other reasons. Although some state laws call these programs *extended benefits*, DOL uses the term *additional benefits* (AB) to avoid confusion with the federal-state EB program. DOL has stated that FPUC is not payable to individuals receiving AB payments. The order of payment for AB within the context of the multiple programs described above is dependent on state law.

[62] July 26, 2020, in New York.

[63] September 6, 2020, in New York.

[64] The White House, "Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019," August 8, 2020, available at https://www.whitehouse.gov/presidential-actions/memorandum-authorizing-needs-assistance-program-major-disaster-declarations-related-coronavirus-disease-2019/.

[65] FEMA, "Lost Wages Supplemental Payment Assistance Guidelines," available at https://www.fema.gov/disasters/coronavirus/governments/supplemental-payments-lost-wages-guidelines.

[66] Section 262 of the Continued Assistance Act provided that states may waive overpayments under the LWA program when an individual is not at fault for the overpayment and repayment would be contrary to equity and good conscience.

additional $100 a week in state funds, the total supplement would have been $400 a week.[67] LWA was not available to those receiving DUA.

As constructed, LWA grants were potentially available for weeks of unemployment ending between August 1, 2020, and December 27, 2020, but the program could have terminated earlier if Congress had enacted supplemental COVID-19 pandemic-related unemployment compensation (e.g., reestablished the FPUC authority, which did not occur in that period) or certain conditions were met related to the balance of the Disaster Relief Fund (DRF). In practical terms, the first week of unemployment covered by LWA began on August 26, 2020, and all states ended LWA payments by September 6, 2020, as the amount of available funds in the DRF precluded additional payments.[68]

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[67] South Dakota and American Samoa did not participate in LWA. Guam, Kentucky, and Montana supplemented LWA with an additional $100 weekly payment. All jurisdictions participating in LWA provided up to six weeks of benefits with the following exceptions: the Commonwealth of Northern Mariana Islands agreed to provide up to three weeks, Florida provided up to four weeks, Idaho provided up to five weeks, and the U.S. Virgin Islands provided up to three weeks. (Email exchange between the authors of this report and FEMA, Office of External Affairs, February 6, 2021.)

[68] Email exchange between the authors of this report and FEMA, Office of the Chief Financial Officer, November 9, 2020.