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**September 3, 2021**

**Email from U.S. Department of Labor to Early Terminating  
States**

**From:** [Lalpuis, Nicholas - ETA](#)  
**To:** [Hageage, Ana - ETA](#)  
**Subject:** FW: CARES Act Termination  
**Date:** Wednesday, September 8, 2021 4:05:58 PM

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The email Jim sent to the terminating states last Friday.

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**From:** Garner, Jim - ETA <Garner.Jimmie@dol.gov>  
**Sent:** Friday, September 3, 2021 4:52 PM  
**To:** Jacobs-Simmons, L - ETA <jacobs-simmons.l@dol.gov>; Lalpuis, Nicholas - ETA <Lalpuis.Nicholas@dol.gov>; Adjibodou, Renata - ETA <Adjibodou.Renata@dol.gov>; Tompoe, Winston - ETA <Tompoe.Winston@dol.gov>; Pitts, Corey - ETA <Pitts.Corey@dol.gov>; Leonetti, Ann - ETA <Leonetti.Ann@dol.gov>; Kenyon, Robert - ETA <Kenyon.Robert@dol.gov>; Malliaras, Steve - ETA <Malliaras.Steve@dol.gov>; Zibert, Rosaura - ETA <zibert.rosaura@dol.gov>; Adams, Dustin R - ETA <Adams.Dustin@DOL.gov>; Stluka, Frank - ETA <Stluka.Frank@dol.gov>; Green, Nanette E - ETA <Green.Nanette.E@dol.gov>; Miller, Leo - ETA <Miller.Leo@dol.gov>; Martin, Timothy - ETA <Martin.Timothy@dol.gov>; Pasquale, Karen - ETA <Pasquale.Karen@dol.gov>; Chan, Thomas D - ETA <Chan.Thomas.D@dol.gov>  
**Cc:** Hays, Daniel - ETA <Hays.Daniel@dol.gov>; Burns, Lawrence - ETA <burns.lawrence@dol.gov>; Simonetta, Suzanne - ETA <Simonetta.Suzanne@dol.gov>; Garrett, Jennifer L - ETA (Garrett.Jennifer.L@dol.gov); Hawkins, Johnnese M - ETA <Hawkins.Johnnese.M@dol.gov>; Peavy, Mark J - ETA <peavy.mark@dol.gov>; Garcia, Stephanie - ETA <Garcia.Stephanie@dol.gov>; Edens, Candace - ETA <Edens.Candace@dol.gov>; King, David H - ETA <King.David.H@dol.gov>; Stengle, Thomas - ETA <Stengle.Thomas@dol.gov>; Stapleton, Kevin - ETA <Stapleton.Kevin@dol.gov>; Greene, Cynthia M. - ETA <Greene.Cynthia.M@dol.gov>; Cowie, Rhonda M - ETA <Cowie.Rhonda.M@dol.gov>; Austin, Dennis - ETA <Austin.Dennis@dol.gov>; Beistel, Rachel - ETA <Beistel.Rachel@DOL.GOV>; Fitzgerald, Jeffrey P - ETA <Fitzgerald.Jeffrey.P@dol.gov>; Levitz, Alyssa J - ETA <Levitz.Alyssa.J@dol.gov>; Urban, Brian A - ETA <Urban.Brian.A@dol.gov>; Perez, Amy E - ETA <Perez.Amy.E@dol.gov>; Beebe, Michelle E - ETA <Beebe.Michelle.E@dol.gov>; Hammer, Jonathan - SOL <Hammer.Jonathan@dol.gov>; Lyn, Jessica - SOL <Lyn.Jessica@dol.gov>  
**Subject:** FW: CARES Act Termination

Hi everyone: FYI. Below is a message I just sent to the states that terminated their participation in the pandemic UI programs before the program expiration date.

Jim  
Jim Garner, Administrator  
ETA's Office of Unemployment Insurance  
202-693-2957 (office)  
202-487-1223 (mobile)

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**From:** Garner, Jim - ETA  
**Sent:** Friday, September 3, 2021 5:46 PM  
**To:** Garner, Jim - ETA <[Garner.Jimmie@dol.gov](mailto:Garner.Jimmie@dol.gov)>  
**Cc:** Beebe, Michelle E - ETA <[Beebe.Michelle.E@dol.gov](mailto:Beebe.Michelle.E@dol.gov)>  
**Subject:** CARES Act Termination

Hi everyone:

Some states have reached out to the Department because they are re-considering termination of one or more of the CARES Act UI programs, either voluntarily or in response to a court order. If your state is re-considering its termination of one or more CARES Act programs, please reach out to the Department as soon as possible to discuss the options that may be available to ensure that any changes are made prior to October 6, which is 30 days after the CARES Act programs expire and the last day on which claimants may submit new PUA applications (with limited exceptions as per Section 4.c. and Attachment II to UIPL No. 16-20, Change 6).

The Department will consider a request to rescind that is submitted in writing and signed by the Governor or their appointed designee. Should the Department agree to having a termination notice be rescinded, the state will need to continue to accept applications and issue payments as if there had been no effective termination. Further, following an accepted rescission, all weeks of unemployment after the earlier termination will be covered under the state's previously signed implementing agreement and all administrative and benefit costs will be federally funded.

We understand there may be additional considerations when a state is responding to a court order and we're happy to discuss those on a case-by-case basis.

If a state does re-institute one or more CARES Act programs, the state will be expected to individually notify the individuals who were previously eligible for these programs at the time of the earlier termination. Additionally, the state must have a process in place to obtain the retroactive continued claims (including weekly self-certifications for individuals receiving PUA). Finally, the state will be expected to comply with the provisions identified in UIPL No. 14-21, Change 1, based on the program expiration date and not the state's rescinded termination date.

Please reach out if additional discussion would be helpful.

Sincerely,

Jim  
Jim Garner, Administrator  
ETA's Office of Unemployment Insurance  
202-693-2957 (office)  
202-487-1223 (mobile)

**Unemployment Insurance Program Letter 16-20, Change 6**

**Dated September 3, 2021**

<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Unemployment Insurance
	<b>CORRESPONDENCE SYMBOL</b> OUI/DUIO
	<b>DATE</b> September 3, 2021

**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 16-20, Change 6**

**TO:** STATE WORKFORCE AGENCIES

**FROM:** LENITA JACOBS-SIMMONS   
Acting Assistant Secretary

**SUBJECT:** Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes

1. **Purpose.** To provide states with additional operating instructions in processing PUA claims 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 to implement these changes to the PUA program.
3. **Summary and Background.**
  - a. Summary – This guidance provides: (1) additional instructions to states in processing the expanded eligibility provisions as described in UIPL No. 16-20, Change 5, published February 25, 2021; (2) guidance on establishing the correct effective date for PUA applications; (3) instructions for handling claims for individuals who are eligible for PUA in multiple states and the state in which they are filing has terminated participation in the program before the program expiration date; (4) guidance for states regarding additional PUA activity after the program expires; (5) an overview of how the Department will assess if a state made a “good faith effort” to implement the PUA program for purposes of states requesting that individuals submit retroactive self-certification declarations; (6) updated reporting requirements to include overpayment waivers on the ETA 902P report.

The Department acknowledges that states need time to implement the provisions of this UIPL. States are expected to implement the expanded eligibility provisions (*see* UIPL No. 16-20, Change 5, and Section 4.a. of this UIPL) – if they have not already done so – and to implement the provisions regarding individuals who are eligible for PUA in

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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multiple states (*see* Section 4.c. of this UIPL) no later than December 31, 2021. States are expected to implement the additional reporting requirements (*see* Section 4.f. and Attachment IV of this UIPL) no later than March 31, 2022. States that need additional time to implement these provisions should work with their appropriate ETA Regional Office.

In addition to the \$250,000 provided to states in UIPL No. 09-21 and \$100,000 provided to states in UIPL No. 16-20, Change 5, states may seek additional funding of up to \$100,000 to cover the costs of implementing provisions in this UIPL. States must submit the required request for funding (SF-424) electronically to [covid-19@dol.gov](mailto:covid-19@dol.gov), with a copy to the appropriate ETA Regional Office by **October 4, 2021**.

The Department published UIPL No. 14-21 on March 15, 2021, which explains the program changes included with enactment of the American Rescue Plan Act of 2021 (ARPA) (Public Law (Pub. L.) 117-2). The Department published UIPL No. 20-21 on May 5, 2021, which describes parameters under which a state may waive recovery of PUA overpayments and includes limited circumstances under which a state may process “blanket waivers” of PUA overpayments. Additionally, the Department published UIPL No. 14-21, Change 1, on July 12, 2021, which provides states with instructions for processing PUA claims after the date of termination or expiration of the PUA program.

All other PUA program parameters, as provided in Section 2102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, (Pub. L. 116-136), PUA agreements, and UIPL Nos. 16-20, Changes 1-5 remain the same unless otherwise noted in this UIPL.

**Attachment I** provides a list of all acceptable COVID-19 related reasons to which an individual may self-certify eligibility that they are unemployed, partially unemployed, or unable or unavailable to work. This includes the COVID-19 related reasons from Section 2102(a)(3)(A)(ii)(I)(aa)-(jj) of the CARES Act and the additional reasons authorized by the Secretary of Labor (Secretary) under the provisions of Section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act. **Attachment II** provides questions and answers regarding additional PUA activity after the program expires. **Attachment III** elaborates on Section C.7. of Attachment I to UIPL No. 16-20, Change 4, to provide information on how ETA will assess whether a state made a good faith effort to implement the PUA program. **Attachment IV** provides Handbook 401 Instructions for ETA 902 Pandemic Unemployment Assistance. **Attachment V** provides instructions for completing the SF-424.

- b. Background – The CARES Act includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2102 of the CARES Act created a new, temporary federal program called PUA and provided states with administrative funding to operate the program through an agreement with the Department.

In general, PUA provides unemployment benefits to individuals who are: 1) not eligible for regular unemployment compensation (UC), Pandemic Emergency Unemployment Compensation (PEUC), or Extended Benefits (EB), including those who have exhausted all rights to such benefits, and those who are self-employed, seeking part-time employment, do not have sufficient wage history, or otherwise would not qualify for regular UC, PEUC, or EB; and 2) are otherwise able to work and available for work within the meaning of applicable state law, except that the individual is unemployed, partially unemployed, or unable or unavailable to work due to a specific COVID-19 related reason identified in Section 2102(a)(3)(A)(ii)(I)(aa)-(kk) of the CARES Act. Any weeks of benefits previously received under the regular UC or EB programs starting with week ending February 8, 2020 (February 9, 2020, for states with a Sunday week ending date) are deducted from the individual's PUA entitlement (*see* Section C.17. of Attachment I to UIPL No. 16-20, Change 4). States are reminded that PUA is 100 percent federally-funded and states may not charge employers for these benefits.

The CARES Act authorized the Secretary to establish COVID-19 related reasons for which an individual may be eligible for PUA in addition to those specific COVID-19 related reasons listed in items (aa)-(jj) of Section 2102(a)(3)(A)(ii)(I) of the CARES Act. The Secretary provided one additional reason described in Section C.1.k. of Attachment I to UIPL No. 16-20 published on April 5, 2020. (*See also* Section 4.b. of UIPL No. 16-20, Change 2, published on July 21, 2020.) The Department added three more COVID-19 related reasons with the publication of UIPL No. 16-20, Change 5, on February 25, 2021.

The Consolidated Appropriations Act, 2021 (Pub. L. 116-260), enacted on December 27, 2020, included the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) in Division N, Title II, Subtitle A. The Continued Assistance Act extended the PUA program and enacted several program integrity measures, including a requirement that all individuals receiving a PUA payment on or after December 27, 2020, submit documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment.

ARPA was enacted on March 11, 2021. It extends authorization of PUA as well as other CARES Act programs through weeks ending on or before September 6, 2021 and increases the maximum number of weeks of PUA available from 50 to 79. *See* UIPL No. 14-21 for details on all Unemployment Insurance (UI)-related provisions under ARPA. The Department has made available \$100,000 to each state for the implementation of the ARPA provisions associated with the PUA program. Detailed information about the available funding for program implementation, application process and permissible implementation costs regarding these funds are provided in Section 4.e. of UIPL No. 14-21.

**Importance of Program Integrity.** Addressing improper payments and fraud is a top priority for the Department and the entire UI system. States play a fundamental role in ensuring the integrity of the UI system. Especially during this time of extraordinary workloads, states should 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, while ensuring that eligible individuals continue to have and maintain access to benefits. It is critical that states implement processes that ensure payments are being made only 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 or stolen identities.

Additionally, under the Continued Assistance Act, for states to have an adequate system for administering the PUA program, states must include procedures for identity verification or validation and for timely payment, to the extent reasonable and practicable, for all new PUA claims filed on or after January 26, 2021 (*see* Section C.3. of Attachment I to UIPL No. 16-20, Change 4).

UIPL No. 28-20, published on August 31, 2020, UIPL No. 28-20, Change 1, published on January 15, 2021, and UIPL No. 28-20, Change 2, published on August 11, 2021, provided states with funding to assist with efforts to prevent and detect fraud and identity theft and to recover fraud overpayments in the PUA and PEUC programs. UIPL No. 22-21, published on August 11, 2021 provided states with funding to assist with such efforts across all UC programs.

**Promoting Program Equity.** As states consider additional tools to incorporate into their fraud management operations, equitable access to unemployment benefits must be at the forefront of the decision-making process, in line with Executive Order (EO) 13985 issued January 20, 2021 and UIPL Nos. 02-16 and 02-16, Change 1. At the most fundamental level, equity within the UC program means the provision of UC payments to eligible workers, regardless of one's background, in a timely and fair manner, with an application process that is readily accessible to all workers. In the context of fraud management, equitable access means that there are alternatives to digital mechanisms of identity proofing; that the mechanisms used to prove identity or flag for fraud do not contain racial, gender, or other bias; and that data is available to understand the impact of fraud mitigation on eliminating barriers that prevent full and equal access to benefits for all eligible individuals. UIPL No. 23-21, published on August 17, 2021, provided states with funding to assist with efforts to promote program equity for all UC programs, including PUA.

#### 4. Guidance.

##### a. **Processing the Expanded Eligibility Provisions under UIPL No. 16-20, Change 5.**

- i. *Notification.* States have requested clarification about the notification requirements related to the newest expanded PUA eligibility provisions described in UIPL No. 16-20, Change 5. As provided in Section 4.b.ii. of that UIPL, notification to individuals must include the following:
- States must notify **every** individual who had previously filed a PUA claim at any time while the PUA program was in effect and was denied for **any** week because they were not unemployed, partially unemployed, or unable or unavailable to work for one of the COVID-19 related reasons available at the time. Below are some examples of who is included in this population.
    - If the individual selected “none of the above” or skipped selecting a COVID-19 related reason and was denied only for this reason, they are included in this population.
    - If a state offered a free-form text box and, upon evaluation against the COVID-19 related reasons available at the time, the state determined that the individual was not unemployed, partially unemployed, or unable or unavailable to work for one of the listed reasons, thus denying them – then the individual is included in this population.
    - If an individual was denied for a reason other than failure to self-certify to a COVID-19 related reason(s), they are not included in this population (*e.g.*, if the individual was denied because they were eligible for regular UC instead, they are not included in this population).
  - This notification must advise the individual of the opportunity to self-certify to the **complete list** of COVID-19 related reasons and to identify the date the individual first became unemployed, partially unemployed, or unable or unavailable to work for COVID-19 related reason(s).
  - Such notification must occur individually as described in Section C.28. of Attachment I to UIPL No. 16-20, Change 4.
  - If the state determines (or previously determined) that a PUA claim was filed by an individual who did not own the identity, the state must not send any notification of potential entitlement based on the complete list of Covid-19 related reasons to the individual.

States have flexibility in how they provide the notice. A state may choose to provide a generic message to all individuals with at least one denied week

explaining that eligibility provisions for PUA have been expanded, and providing the complete list of COVID-19 related reasons, including instructions for how the individual may contact the state agency to self-certify to previously denied weeks. This notice could read:

*This notice is to inform you of recent changes to the eligibility provisions for Pandemic Unemployment Assistance (PUA). You were previously denied PUA benefits because you did not meet one of the specific COVID-19 related reasons. On February 25, 2021, the U.S. Department of Labor approved new COVID-19 related reasons under which you may self-certify eligibility for PUA, if applicable. Below is a complete list of the COVID-19 related reasons. If any of the reasons apply to you for a week that you were previously denied or for a week prior to your claim start date, but no earlier than [either February 2, 2020 or December 6, 2020, depending on when the initial claim was filed], to apply for benefits, you may contact [insert state-specific instructions].*

Alternatively, a state may choose to include self-certification forms for each previously denied week or a single table providing a row for each COVID-19 related reason and a column for each previously denied week. Such forms or tables must include a notice advising the individual that intentional misrepresentation on the self-certification is fraud, consistent with Question 45 of Attachment I to UIPL No. 16-20, Change 1. Additionally, the state must allow the individual to self-certify to the complete list of COVID-19 related reasons for a week prior to the claim start date, if the individual indicates that they were unemployed, partially unemployed, or unable or unavailable to work due to one or more of the COVID-19 related reasons prior to their PUA claim filing date (but no earlier than either February 2, 2020 or December 6, 2020, depending on when the initial claim was filed and subject to the backdating limitations described in Section C.15. of Attachment I to UIPL No. 16-20, Change 4).

- ii. *Processing certifications returned from previously denied PUA weeks.* An individual must be found eligible for a previous week if they: (1) were previously denied for a week **only** because they did not self-certify to one or more of the COVID-19 related reason(s) available at the time; (2) upon receiving notification of the expanded eligibility list of COVID-19 related reasons, self-certified that they were unemployed, partially unemployed, or unable or unavailable to work due to one or more of the COVID-19 related reasons; and (3) meet all other eligibility requirements for the program.

If such an individual had a week of unemployment that was previously denied only because the individual was not unemployed, partially unemployed, or unable or unavailable to work because of available COVID-19 related reason(s) and that denial was affirmed at the appellate level, the state must reevaluate this denial in the context of the Department's guidance provided in UIPL No. 16-20, Change 5. States are encouraged to coordinate with their Lower Authority and Higher Authority appellate levels to implement this requirement.

Further, under the "Agreement Implementing the Relief for Workers Affected by Coronavirus Act (Agreement)" that the state entered into with the Department to administer the PUA program, the state agreed to administer the program "in accordance with the terms of this Agreement, and all guidance or operating instructions issued by the Department of Labor." A state's jurisdictional limitation cannot prevent the Department from taking action if a state is found to be out of compliance with the requirements of this Agreement. Additionally, we note that some state UC laws contain a "savings clause" which may be invoked in order to administer the program in conformity with federal UC law and regulations. Invoking the savings clause may be an appropriate step to ensure the state can administer the PUA program in accordance with Section 2102 of the CARES Act, as amended, and the Department's subsequent guidance authorized under Section 2116 of the CARES Act, as amended.

- b. **Establishing the Correct Effective Date for PUA Applications.** As described in Question 4 of Attachment I to UIPL No. 16-20, Change 1, an individual does not need to demonstrate good cause to backdate a PUA claim. Rather, the claim must be backdated to the first week during the Pandemic Assistance Period that the individual was unemployed, partially unemployed, or unable or unavailable to work because of the COVID-19 related reason(s) described in Attachment I to this UIPL.

States must include a question on their initial PUA application to determine when the individual first became unemployed, partially unemployed, unable or unavailable to work because of one of the COVID-19 related reason(s). With this information, states must automatically backdate the PUA claim to the week that the individual first met the requirements for PUA (subject to the limitations described in Section C.15. of Attachment I to UIPL No. 16-20, Change 4).

If a state did not gather this information at the time of initial PUA application, retroactive action is not needed to obtain such information. However, the state must continue to process any individual requests.

- c. **Individuals eligible for PUA in multiple states.** To expand on Question 7 of Attachment I to UIPL No. 16-20, Change 1, an individual (whether self-employed or working in covered employment) must file their PUA claim with the state where they were working at

the time of becoming unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s). If the individual worked in more than one state at that time, the individual may file a PUA claim in any of those states.

If the individual was working outside of the country in a job with a connection to the U.S. labor market at the time of becoming unemployed, partially unemployed, or unable or unavailable to work (*e.g.*, as a Peace Corps participant), then the individual should file in the state in which they reside. Absent this situation, **an individual may not file a PUA claim with a state in which they did not work.**

An individual who worked in more than one state at the initial time of becoming unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s) or after filing the original PUA claim – and whose state in which they originally filed for PUA terminated the program prior to its expiration date – may then file a PUA claim in the other state in which they worked.

States are reminded that an individual may not receive PUA in more than one state for any given week and may only receive assistance under the PUA program for a total of 79 weeks (minus any week for which the individual received regular UC or EB during the Pandemic Assistance Period).

For example, an individual worked in both State A and State B at the time of becoming unemployed due to approved COVID-19 related reason(s). The individual filed for and received PUA from State A. State A elected to terminate participation in the PUA program effective June 26, 2021; State B did not terminate the program early. Upon termination of the PUA program in State A, the individual may file a PUA claim in State B. The individual may not receive PUA from State B for the same weeks of unemployment in which they received PUA from State A. Additionally, any weeks of regular UC, EB, and PUA that the individual previously received must be deducted from the individual's total PUA duration in State B. In this example, the individual received 26 weeks of regular UC, 0 weeks of EB, and 46 weeks of PUA in State A, for a total of 72 weeks of benefits. Weeks of unemployment under the PEUC program are not deducted. The individual would be potentially eligible for seven (7) additional weeks of PUA in State B.

- i. *Responsibility of states that have terminated the PUA program prior to its expiration.*
  - A. **Legal Authority.** As noted in the Department's correspondence with states that have terminated the PUA program, the state must process and pay benefits under the PUA program for all weeks of unemployment ending on or before the date of termination, and comply with all responsibilities with respect to claims filed under these programs for those weeks. As noted in

Section 4.a.i.A. of UIPL No. 14-21, Change 1, this includes taking new applications for PUA for 30 days after the date of termination.

- B. Notifications. As noted in Section 4.b. of UIPL No. 14-21, Change 1, states are required to individually notify individuals of the termination of the PUA program, including anyone who was receiving PUA at the time of termination, as well as anyone for whom a PUA claim was previously established (*i.e.*, individuals with remaining PUA balances who stopped filing such claims).

Additionally, such states are strongly encouraged to notify this same population of individuals that they may be eligible, under specific circumstances, to file a new PUA claim in states that have not terminated participation in the PUA program. By October 4, 2021, the Department will provide states with a sample communication notice that they may use, including information on where to direct individual inquiries regarding this matter.

- C. Coordination with States that Continue to Administer the PUA Program. States that have terminated the PUA program must cooperate with information requests from states that continue to administer the PUA program, including by providing information on the weeks of unemployment for which an individual received payment under the regular UC, EB, or PUA program during the Pandemic Assistance Period.

- ii. *Responsibility of states that continue to administer the PUA program prior to its expiration date.*

- A. Legal Authority. Section 2102 of the CARES Act, as amended, requires that benefits be paid to individuals who meet the definition of a covered individual in a state that has an agreement to pay PUA in place. Under the terms of the statute, if an individual meets the eligibility requirements on the basis of employment or self-employment in more than one state, benefits are to be paid by either state which has an agreement with the Department. As noted above, if the individual worked in more than one state at the time of becoming unemployed, partially unemployed, or unable to work because of approved COVID-19 related reason(s), the individual may choose to file a PUA claim in any of those states.

In the event that the paying state terminates its agreement with the Department, the covered individual would remain eligible for PUA in any other state where the individual also worked which continues to administer the PUA program so long as: i) the individual has not exhausted their entitlement to PUA benefits; ii) there remains an agreement between the other state and

the Department; and iii) the individual meets all the other eligibility requirements.

- B. Determining Eligibility. The individual must continue to meet all the eligibility criteria for PUA to receive benefits in the new state. This includes the state's obligation to verify or validate an individual's identity (*see* Section C.3. of Attachment I to UIPL No. 16-20, Change 4).

The individual must also submit documentation substantiating employment or self-employment (or the planned commencement of such) performed in the state where they are filing the new PUA claim. *See* Section C.2. of Attachment I to UIPL No. 16-20, Change 4. For purposes of individuals filing a second PUA claim under this section, the state must obtain such documentation substantiating employment or self-employment (or the planned commencement of such) **prior to releasing payment on the new claim**. Note that this is different from individuals who are filing a PUA claim for the first time – for which an eligible individual may receive immediate payment while they have 21 days to submit such documentation (*see* Section C.2. of Attachment I to UIPL No. 16-20, Change 4).

Additionally, for purposes of individuals filing a second PUA claim under this section, such documentation must demonstrate proof of employment or self-employment (or the planned commencement of such employment or self-employment) **in the new state at some point between the start of the applicable taxable year for the original PUA claim and the date of filing of the new claim**.

- C. Calculating Benefit Entitlement.

- (1) *Weekly Benefit Amount (WBA)*. The base period for calculating a PUA claim's WBA is defined as the most recent tax year that has ended for the individual prior to the individual's unemployment, partial unemployment, or inability or unavailability to work because of the approved COVID-19 related reason(s). *See* Attachment II to UIPL No. 16-20, Change 1, for instructions on calculating the WBA.

For purposes of individuals filing a second PUA claim under this section, the state should use the base period from the individual's original PUA claim. As noted in Attachment II to UIPL No. 16-20, Change 1, the computation formula is based on state law and so it is possible for an individual to have a different PUA WBA on the second claim despite using the same look-back period as the original claim.

Additionally, because employers are not charged for PUA, there is no prohibition on using wages from the original state in calculating the WBA for the new state.

(2) *Number of Weeks (i.e., Duration)*. The maximum number of weeks of PUA benefits for an individual is 79 weeks (*see* Section 4.c.i. of UIPL No. 14-21 for additional details). For new PUA claims filed in a state which continues to administer the PUA program, the state must determine if an individual has previously received PUA in another state and, if so, subtract any weeks of unemployment for which the individual received regular UC, EB, or PUA during the Pandemic Assistance Period from the individual's PUA entitlement.

D. Coordination with Terminating States. States that continue to administer the PUA program must coordinate with terminating states to obtain information on the weeks of unemployment for which an individual received payment under the regular UC, EB, or PUA program during the Pandemic Assistance Period and such weeks must be deducted from the individual's PUA entitlement.

- d. **State activity after the PUA program expires**. For a state that did not terminate the PUA program before the expiration date, the PUA program expires with weeks of unemployment ending on or before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week of PUA is the week ending September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week of PUA is the week ending on September 5, 2021. *See* Section 4.c.i. of UIPL No. 14-21.
- i. *Taking new applications after the date of termination or expiration*. As described in Section 4.a.i.A. of UIPL No. 14-21, Change 1, states must accept new PUA applications for 30 days after the date of state termination or program expiration (whichever comes first) and such claims must be backdated, as appropriate, to the first week during the Pandemic Assistance Period in which the individual was unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s) (subject to the backdating limitations described in Section C.15. of Attachment I to UIPL No. 16-20, Change 4).
  - ii. *Taking new applications from individuals eligible for PUA in multiple states*. The Department recognizes that states may need additional time to accommodate this process described in Section 4.c. of this UIPL in their existing computer systems. As such, states that did not terminate their participation in the PUA program prior to the program's expiration date on September 6, 2021 must accept applications

meeting the following criteria for 30 days after the state's PUA system becomes capable of accepting and processing such applications:

- Individuals who worked in more than one state at the time of becoming unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s); and
- The state in which such individual originally filed for PUA terminated the program prior to its expiration date, which prevented the individual from continuing to receive PUA.

Attachment II of this UIPL provides Questions and Answers to address recent state inquiries, as well as a table summarizing the dates included in these answers. This includes timeframes for states to accept continued claim forms and documentation submitted by an individual to be considered for a higher WBA.

- e. **Assessing a State's Good Faith Effort in Implementing the PUA Program.** Section 263 of the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) requires individuals, as a condition of continued eligibility for PUA benefits, to provide a weekly recertification (i.e., self-certification) that they are otherwise able to work and available to work within the meaning of applicable state law, except that they are unemployed, partially unemployed, or unable or unavailable to work because of one or more of the COVID-19 related reasons specified in Section 2102(a)(3)(A)(ii) of the CARES Act. This applies with respect to weeks beginning on or after January 26, 2021 (30 days after the enactment of the Continued Assistance Act).

If a state made a good faith effort to implement the PUA program under Section 2102 of the CARES Act and in accordance with rules similar to those provided in 20 C.F.R. 625.6, as provided for in Section 263 of the Continued Assistance Act, an individual who previously received PUA must not be denied benefits for weeks of unemployment ending before February 6, 2021 (or February 7, 2021 for states with a Sunday week-ending date), solely for failing to submit a weekly recertification (i.e., self-certification) which identifies the specific COVID 19 reason(s) as described in 2102(a)(3)(A)(ii).

The Department recognizes the significant operational load on states and the burden on individuals to complete retroactive activities. ETA will assess each state's PUA implementation to determine if the state made a good faith effort to implement the PUA program in accordance with Section 2102 of the CARES Act and 20 C.F.R. 625.6. This assessment will determine what, if any, retroactive action is needed by the state.

Attachment III of this UIPL provides information on how ETA will assess whether the state made a good faith effort in implementing the PUA program. This assessment will determine what, if any, action is needed from the state to obtain retroactive self-certification declarations from individuals.

- f. **Updated Reporting Requirements.** ETA has revised the ETA 902P report to include one additional data item for tracking of the PUA overpayment waiver amount. This guidance supersedes the reporting instructions provided in Attachment II to UIPL No. 16-20, Change 4. The ETA 902P now includes the following additional data cells:

Section C, Overpayment Activity

Column 22, the total amount of all PUA overpayments waived for the reporting period.

Timeline for submitting new reporting components. Any ETA 902P report submitted after the publication of this UIPL must include the additional components. For ETA 902P reports previously submitted for prior months, states may submit amended reports, for each month, containing the following:

- PUA waiver amount in column 22;

Alternatively, states have the option of including cumulative amounts for all prior months in the Comments section of the next ETA 902P report submission for:

- PUA waiver amounts

Refer to Attachment IV of this UIPL for the revised report template and instructions about this reporting.

Additional obligational authority for the PUA program will be added to the existing PUA Administration funding line on the state's Pandemic Grant.

- g. **Additional administrative costs for implementation.** In addition to the \$250,000 provided to states in UIPL No. 09-21 and \$100,000 provided to states in UIPL No. 16-20, Change 5, states may seek additional funding of up to \$100,000 to cover the costs of implementing provisions in this UIPL. States must submit a signed SF-424 form to request this funding.

Permissible implementation costs include:

- Computer programming and other technology costs;
- Implementation of necessary business processes required for program implementation, including customer experience and usability expertise, as well as plain language expertise;
- Training and travel;
- Notices to beneficiaries; and
- Overhead related only to the above.

States will receive funding to administer claims under these provisions as part of their usual submissions of workload counts to the Department. Such ongoing administrative costs must not be included in the request for implementation funding. See Attachment IV of this UIPL for updated instructions on the ETA 902P report.

States must submit the required request for funding electronically to [covid-19@dol.gov](mailto:covid-19@dol.gov), with a copy to the appropriate ETA Regional Office by **October 4, 2021**. For information on completing the SF-424, refer to Attachment V of this UIPL, *Instructions for Completing the SF-424*.

Additionally, please note that grantees that receive supplemental grant awards for implementing these program changes must submit a quarterly progress report using the form ETA 9178-P to the appropriate ETA Regional Office. The form ETA 9178-P requires the grantee to provide ETA with narrative updates on supplemental grant activities. Attachments III and IV to UIPL No. 16-20, Change 1, contain Form ETA 9178-P and instructions for completing the Form ETA 9178-P and timeline for the submission of these status reports.

If a state exhausts resources before implementation changes are completed, the state may submit a Supplemental Budget Request (SBR) for additional administrative funds, detailing such costs along with the required SF-424 form. The basis for these estimated costs must be included in the SBR application. Calculations for costs for state staff and contractors should be shown in accordance with the SBR instructions in ET Handbook No. 336, 18th Edition, Change 4, *Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines*. For SBR application instructions, refer to UIPL No. 16-20, Attachment IV, Supplemental Budget Request (SBR) Application Template.

5. **Inquiries.** Please direct inquiries to [covid-19@dol.gov](mailto:covid-19@dol.gov) with a copy to the appropriate ETA Regional Office.

6. **References.**

- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);
- Families First Coronavirus Response Act, including Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) (Pub. L. 116-127);

- 20 C.F.R. Part 625, Disaster Unemployment Assistance;
- Executive Order 13985 of January 20, 2021; 86 FR 7009, page 7009-7013, <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>;
- UIPL No. 23-21, *Grant Opportunity for Promoting Equitable Access to Unemployment Compensation (UC) Programs*, issued August 17, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7400](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7400);
- UIPL No. 22-21, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, published August 11, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?docn=4240](https://wdr.doleta.gov/directives/corr_doc.cfm?docn=4240);
- UIPL No. 20-21, *State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended*, issued May 5, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6830](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6830);
- UIPL No. 14-21, Change 1, *State Responsibilities After the Temporary Unemployment Benefit Programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as amended, End Due to State Termination of Administration or When the Programs Expire*, issued July 12, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=9502](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9502);
- UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5669](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669);
- 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](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831);
- UIPL No. 28-20, Change 2, *Additional Funding to Assist with Strengthening Fraud Detection and Prevention Efforts and the Recovery of Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs, as well as Guidance on Processes for Combatting Identity Fraud*, issued August 11, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?docn=7207](https://wdr.doleta.gov/directives/corr_doc.cfm?docn=7207);
- UIPL No. 28-20, Change 1, *Additional Funding for Identity Verification or Verification of Pandemic Unemployment Assistance (PUA) Claimants and Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft as well as Recover Fraud Overpayments in the PUA and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, issued January 15, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?docn=9897](https://wdr.doleta.gov/directives/corr_doc.cfm?docn=9897);
- UIPL No. 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*, issued August 31, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8044](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](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4621);
  - UIPL No. 16-20, Change 5, *Expanded Eligibility Provisions for the Pandemic Unemployment Assistance (PUA) Program*, issued February 25, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3202](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3202);
  - UIPL No. 16-20, Change 4, *Continued Assistance to Unemployed Workers Act of 2020 – Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued January 8, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6973](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6973);
  - UIPL No. 16-20, Change 3, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Eligibility of Individuals who are Caregivers for Pandemic Unemployment Assistance (PUA) in the Context of School Systems Reopening*, issued August 27, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3849](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3849);
  - UIPL No. 16-20, Change 2, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Additional Questions and Answers*, issued July 21, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5479](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5479);
  - 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](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899);
  - 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 05, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=4628](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628);
  - UIPL No. 10-20, Change 1, *Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19) – Interpretation of “Between and Within Terms” Denial Provisions in Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA)*, published May 15, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8879](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8879);
  - UIPL No. 05-17, *Interpretation of “Contract” and “Reasonable Assurance” in Section 3304(a)(6)(A) of the Federal Unemployment Tax Act*, published December 22, 2016, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8999](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8999);
  - UIPL No. 02-16, Change 1, *State Responsibilities for Ensuring Access to Unemployment Insurance Benefits, Services, and Information*, published May 11, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5491](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5491);

- UIPL No. 02-16, *State Responsibilities for Ensuring Access to Unemployment Insurance Benefits*, issued October 01, 2015, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=4233](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4233); and
- ET Handbook No. 336, 18<sup>th</sup> Edition, Change 4, *Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines*.

7. **Attachment(s)**.

- **Attachment I:** Acceptable COVID-19 Related Reasons for PUA Eligibility.
- **Attachment II:** Questions and Answers – State Activity After the PUA Program Expires.
- **Attachment III:** Assessment of a State’s Good Faith Effort in Implementing the PUA Program.
- **Attachment IV:** ETA 902P – Pandemic Unemployment Assistance Activities.
- **Attachment V:** Instructions for Completing the SF-424.

**Acceptable COVID-19 Related Reasons for PUA Eligibility**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Attachment II to UIPL No. 16-20, Change 6

### Questions and Answers

#### State Activity after the Pandemic Unemployment Assistance (PUA) Program Expires

Section 4.c. of this UIPL describes state activity after the PUA program expires. Below are Questions and Answers to address recent state inquiries. The table after the questions and answers summarizes the dates included in these answers.

One of the criteria to be eligible for PUA is that an individual must self-certify that they are unemployed, partially unemployed, or unable or unavailable to work due to approved COVID-19 related reason(s) for weeks of unemployment ending on or before the date of state termination or program expiration (whichever comes first). **PUA may not be paid for any weeks of unemployment ending after September 6, 2021.**

The Department recognizes that for states with a backlog in resolving eligibility issues, these claims may not be processed for months into the future and the Department stands ready to provide technical assistance to such states to address this backlog.

1. Question: Is the state required to accept PUA applications until October 6, 2021, or would it be through the end of the unemployment week prior to October 6, 2021?

Answer: For claims other than those described in Section 4.c. of this UIPL where the individual is eligible for PUA in multiple states and where the state did not terminate the PUA program before the program expiration date, the state must accept new PUA applications through October 6, 2021. Note that PUA may not be paid for any weeks of unemployment ending after September 6, 2021.

2. Question: May an individual file a new PUA application after the 30-day required period if they filed for regular unemployment compensation (UC) prior to October 6, 2021, but the state does not make a determination of ineligibility for regular UC until after October 6, 2021?

Answer: Yes. If the individual self-certifies that they were unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s) for weeks of unemployment ending on or before the date of state termination or program expiration (whichever comes first), they may file a new PUA application after the 30-day required period only if they: (1) filed a regular UC claim prior to the end of the 30-day required period for accepting new PUA applications after the date of state termination or program expiration (whichever comes first) and (2) are found ineligible for regular UC (or PEUC or EB) after the end of the 30-day required period. However, such an individual must file the PUA claim within 21 days of the determination of ineligibility for regular UC. The state must notify affected individuals of this PUA filing deadline, which may be done as part

of the notification that their UC (or PEUC or EB) claim was denied or in a separate notification.

3. Question: The state is required to accept new PUA applications for 30 days after the date of state termination or program expiration (whichever comes first). How long must the state accept continued claim forms for a PUA claim?

Answer: PUA may not be paid for any weeks of unemployment ending after September 6, 2021, though payment for weeks of unemployment ending before September 6, 2021, may occur at a later date. After the Pandemic Assistance Period ends September 6, 2021, the state must accept continued claim forms for 21 days after the later of: i) the date on which the state notifies an individual of their right to self-certify under the expanded eligibility provisions described in UIPL No. 16-20, Change 5; ii) the program expiration date; or iii) the date the individual files a new PUA application.

4. Question: The state must accept documentation submitted by the individual to be considered for a higher weekly benefit amount (WBA) at any time during the Pandemic Assistance Period (*see* Question 2 of Attachment I to UIPL No. 16-20, Change 2). Since the Pandemic Assistance Period ends on September 6, 2021, and the state must accept new PUA applications for an additional 30 days, what is the deadline for accepting documentation to be considered for a higher WBA?

Answer: After the Pandemic Assistance Period ends September 6, 2021, the state must accept documentation to be considered for a higher WBA for up to 21 days after the later of: i) the program expiration date; ii) the date the individual files a new PUA application; or iii) the date the state notifies the individual of their ability to submit documentation to be considered for a higher WBA. This applies to all states, regardless of whether they terminated the PUA program prior to its expiration date.

NOTE: Providing documentation to support the calculation of a higher WBA is a separate provision from the requirement to provide documentation substantiating employment or self-employment. The deadline for submitting documentation substantiating employment or self-employment is determined by the date the individual filed a new claim or was instructed by the state to provide such documentation (whichever is later) – either 21 days or 90 days. *See* Section C.2. of Attachment I to UIPL No. 16-20, Change 4.

5. Question: States are required to process and pay benefits under the PUA program for all weeks of unemployment ending on or before the date of state termination or program expiration (whichever comes first). Will the Department continue to provide administrative funding for the required PUA activities after this date?

Answer: Yes. So long as the state is processing PUA-related workload (*e.g.*, determinations, appeals, overpayments), the state may continue to receive administrative funding for such activities. To receive such funding, the state must continue to report workload activity on the ETA 902P. The Department expects that such activity may continue, at an increasingly

diminishing rate, for several months or years into the future and will continue to fund administration based on the ETA 902P reporting numbers – with the expectation that this amount will likely decrease over time.

Reference	Description	States Terminating the PUA Program Early	States Not Terminating the PUA Program Early
<b>Section 4.c. of this UIPL</b>	PUA Program End Date	Varies by state but prior to week ending 09/04/21	Weeks of unemployment ending on or before 09/06/21
<b>Question 1</b>	Timeframe for state to accept new PUA applications	+ 30 days from state termination date (date varies by state)	For claims other than those described in Section 4.c. of this UIPL where the individual is eligible for PUA in multiple states and the state did not terminate the PUA program before the program expiration date, + 30 days from program expiration date (10/06/21)
<b>Section 4.c. of this UIPL</b>	<u>Special Scenario.</u> Timeframe for state to accept new PUA applications for an individual who: i) worked in more than one state at the time of becoming unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s); and ii) the state in which such individual originally filed for PUA terminated the program prior to its expiration date, which prevented the individual from continuing to receive PUA	N/A	+ 30 days from date the state's PUA system is capable of accepting and processing such applications
<b>Question 2</b>	<u>Special Scenario:</u> Timeframe for state to accept new PUA applications for an individual who self-certifies that they were unemployed, partially unemployed, or unable or unavailable to work because of approved COVID-19 related reason(s) for weeks of unemployment ending on or before the date of state termination or program expiration (whichever comes first) and meets the following criteria: 1) filed a regular UC claim prior to the end of 30-day required period; and 2) state does not determine they are ineligible for regular UC (or PEUC or EB) until after 30-day required period	+ 21 days after determination of ineligibility for regular UC claim that was filed on or before 30-day required period from Question 1	+ 21 days after determination of ineligibility for regular UC claim that was filed on or before 30-day required period from Question 1

Reference	Description	States Terminating the PUA Program Early	States Not Terminating the PUA Program Early
<b>Question 3</b>	Timeframe for state to accept continued claim forms for PUA claim	+ 21 days after the later of: i) the date on which the state notifies an individual of their right to self-certify under the expanded eligibility provisions described in UIPL No. 16-20, Change 5; ii) the program expiration date; or iii) the date the individual files a new PUA application.	+ 21 days after the later of: i) the date on which the state notifies an individual of their right to self-certify under the expanded eligibility provisions described in UIPL No. 16-20, Change 5; ii) the program expiration date; or iii) the date the individual files a new PUA application.
<b>Question 4</b>	Timeframe for state to accept documentation submitted by the individual to be considered for a higher WBA	+ 21 days after the later of: i) the program expiration date; ii) the date the individual files new PUA application; or iii) the date the state notifies the individual of their ability to submit documentation to be considered for a higher WBA	+ 21 days after the later of: i) the program expiration date; ii) the date the individual files new PUA application; or iii) the date the state notifies the individual of their ability to submit documentation to be considered for a higher WBA

## Attachment III to UIPL No. 16-20 Change 6

### Assessment of a State's Good Faith Effort in Implementing the PUA Program

As discussed in Section 4.e. of this UIPL, ETA will assess each state's PUA implementation to determine if the state made a good faith effort to implement the PUA program in accordance with Section 2102 of the CARES Act and 20 C.F.R. 625.6. This assessment will determine what, if any, retroactive action is required by the state.

Acknowledging that the eligibility requirements for the PUA program evolved over time in response to legislative enactments, states may have had multiple implementation phases for administering PUA. ETA will work with each state to review initial applications and continued claim forms to determine if the state made a good faith effort to implement the PUA program.

**Step 1: Evaluate the state's implementation of Monetary Determinations.** ETA defines a good faith effort "in accordance with 20 C.F.R. 625.6" to mean that a state took the following actions:

- a. provided a Monetary Determination for all PUA claims and included notice that individuals may submit documentation to be considered for a higher PUA weekly benefit amount (WBA) at any time during the Pandemic Assistance Period;
- b. issued a monetary redetermination if the state determined that such documentation was sufficient to permit a re-computation for a higher PUA WBA. *See* Question 2 of Attachment I to UIPL No. 16-20, Change 2; and
- c. when establishing a WBA based on self-attestation and the individual failed to submit proof of earnings/income within 21 days, the state issued a Monetary Redetermination reducing the WBA and established an overpayment as appropriate.

States that did not make a good faith effort will be required to take the following actions, based on the reason why the state was determined to not have made a good faith effort to implement the monetary determination:

1. Notify all individuals receiving PUA that they may submit documentation to demonstrate that they may be eligible for a higher WBA at any time during the Pandemic Assistance Period (see Section 4.d. and Attachment II of this UIPL for additional details about accepting such documentation after the program expiration date).
2. If the state received documentation from an individual that is sufficient to permit a re-computation of the PUA WBA, the state must process the request and issue a Monetary Redetermination and issue supplementary payment(s) as appropriate.
3. If the state relied on self-attestation to calculate a WBA higher than the minimum WBA and the state has not yet taken action for individuals who either failed to respond with proof of earnings/income within 21 days (and did not provide any documentation subsequent to the 21-days that would support the higher WBA) or for individuals whose documentation did not support the higher WBA amount, the state must issue a Monetary

Redetermination reducing the WBA and establish an overpayment as appropriate. *See* UIPL No. 20-21 for information regarding PUA overpayments.

***Step 2: Evaluate the state’s implementation of the self-certification.*** ETA defines a good faith effort to implement the self-certification declaration to mean that the state took the following actions:

- a. the state obtained a self-certification either on the initial PUA application or as part of the individual’s first continued claim certification (the first week of eligibility);
- b. the language used on the state’s self-certification reasonably captures the intent of the COVID-19 related reasons in Section 2102(a)(3)(A)(ii)(I) of the CARES Act and Department guidance; and
- c. the state assessed whether the individual was otherwise able to work and available for work within the meaning of applicable state law (“able and available” status) except for the self-certified COVID-19 related reason(s).

*A Note on Evaluating Underpayments.* Section C.7. of Attachment I to UIPL No. 16-20, Change 4, advised that an evaluation of good faith effort may also include the extent to which the state’s implementation of the self-certification requirement may have resulted in potentially eligible individuals not receiving benefits. In Section 4.b.1. of UIPL No. 16-20, Change 5, ETA provided states instructions to retroactively evaluate all claims that were previously denied and additional instructions are provided in Section 4.a. of this UIPL. **Provided the state complies with the requirements of UIPL No. 16-20, Change 5, no further retroactive action is needed in ensuring potentially eligible individuals were not denied benefits.**

States that did not make a good faith effort will be required to take the following actions, based on the reason why the state was determined to not have made a good faith effort to implement the self-certification:

1. Seek retroactive self-certifications from any individuals who were not asked to self-certify to the approved COVID-19 related reason(s) at some point during their claim series to assess eligibility.
2. Seek retroactive self-certifications from individuals who were paid based on an unapproved, overly-expansive COVID-19 related reason who were not asked to self-certify to the approved COVID-19 related reason(s) at some point during their claim series to assess eligibility.
3. If the state failed to include an eligibility question regarding an individual’s able and available status on the continued claim form, or if the state included such a question but failed to properly adjudicate the eligibility issue when an individual reported that they were either unable or unavailable to work (for a reason other than the approved COVID-19 related reason(s) described in Attachment I of this UIPL), the state must retroactively request such status for every paid week and, if the individual responds that they were not able and available for any given week, properly adjudicate the eligibility issue and establish overpayments where appropriate.

For any of these possible retroactive actions: If the individual is provided an opportunity to self-certify that they were unemployed, partially unemployed, or unable or unavailable to work due to the full list of approved COVID-19 related reason(s) and the individual is determined to not have actually qualified for PUA for the weeks already paid, the individual must be determined ineligible and an overpayment must be established for any week in which the individual did not meet the PUA eligibility requirements. *See* UIPL No. 20-21 for further information regarding PUA overpayments and evaluating eligibility to waive recovery of such overpayments.

ETA 902P – PANDEMIC UNEMPLOYMENT ASSISTANCE ACTIVITIES  
Section IV-4

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## A. Facsimile of Form

### ETA 902P – PANDEMIC UNEMPLOYMENT ASSISTANCE ACTIVITIES (PUA)

STATE:		REGION:			REPORT FOR PERIOD ENDING:			
<b>SECTION A. APPLICATION AND PAYMENT ACTIVITIES</b>								
CATEGORY	LINE NO.	INITIAL APPS.	NO. DETERM. ELIG.	FIRST PAYMTS.	WKS. CLAIMED	WKS. COMP.	AMOUNT COMP.	FINAL PAYMTS.
		1	2	3	4	5	6	18
<b>Total</b>	<b>101</b>							
<b>Self - Employed</b>	<b>102</b>							

<b>SECTION B. DENIAL AND APPEALS ACTIVITY</b>								
CATEGORY	LINE NO.	WKS.OF PUA DENIED	APPEALS FILED		APPEALS DISPOSED		FAVOR OF APPELLANT	
			STATE	R A	STATE	R A	STATE	R A
			7	8	9	10	11	12
<b>Total</b>	<b>201</b>							
<b>Self - Employed</b>	<b>202</b>							

<b>SECTION C. OVERPAYMENT ACTIVITY (all activity EXCEPT Identity Theft) AND ADMINISTRATION</b>							
CATEGORY	LINE NO.	OVERPAYMENTS ESTABLISHED			OVERPAYMENT RECOVERIES	WAIVED	ADMINISTRATIVE COSTS
		CASES	WEEKS	AMOUNT	AMOUNT	AMOUNT	
		14	15	16	16A	22	
<b>Total</b>	<b>301</b>						
<b>Fraud</b>	<b>302</b>						

<b>SECTION D. OVERPAYMENT ACTIVITY RELATED TO IDENTITY (ID) THEFT</b>						
CATEGORY	LINE NO.	ID THEFT OVERPAYMENTS ESTABLISHED			ID THEFT OVERPAYMENT RECOVERIES	
		CASES	WEEKS	AMOUNT	AMOUNT	
		19	20	21	21A	
<b>Total</b>	<b>401</b>					
<b>Fraud</b>	<b>402</b>					

**Comments:**

**OMB No.:** NA

**OMB Expiration Date:** NA

**OMB Burden Minutes:** NA

**OMB Burden Statement:** Section 2116(a), Division B, Title II of the CARES Act states that “Chapter 35 of Title 44, United States Code, (commonly referred to as the “Paperwork Reduction Act of 1995”) shall not apply to the amendments made by this subtitle.” Therefore these reporting instructions do not require additional OMB approval and the submission of this information is required to obtain or retain benefits under the SSA 303(a)(6).

## **B. Purpose**

The ETA 902P report contains monthly data on Pandemic Unemployment Assistance (PUA) activities provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Pub. Law 116-136), enacted on March 27, 2020. PUA is a temporary Federal program created under the CARES Act to provide relief for workers affected by the coronavirus who do not qualify for other Federal benefits such as regular unemployment insurance or extended benefits.

## **C. Scope and Duration of the Report**

1. The first report shall be sent in the month following the date the state entered into an agreement to participate in the PUA program, and later reports shall be sent each month that PUA activity continues to occur, such as for payments made for weeks in the pandemic assistance period (PAP) issued as a result of appeals.
2. Reports must be submitted monthly until all payment and appeals activity are completed.

## **D. Due Date and Transmittal**

Reports shall be submitted electronically each month providing PUA activities performed during the preceding calendar month. Reports are due in the National Office on the 30th of the month following the month to which data relate. South Pacific Island jurisdictions must submit hardcopy reports, as there is no electronic submittal method available to them at this time.

For South Pacific Island jurisdictions via email to [UI-Reports@uis.doleta.gov](mailto:UI-Reports@uis.doleta.gov). If mailed, one copy should be sent to the National Office addressed as follows:

U.S. Department of Labor, ETA  
Attn: Pandemic Unemployment Assistance  
Coordinator/Program Specialist  
Division of Unemployment Insurance Operations

Frances Perkins Building  
Room # S-4524  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

One copy should also be sent to the San Francisco ETA Regional Office.

## **E. General Reporting Instructions**

1. In all instructions, reference to state UI (UC) claims will include UCFE, UCX, TRA, RRA (Railroad), EB, and any other program included and/or defined under 20 C.F.R. 625.2(d).

2. Self-employed applicants are those who have filed an initial request for PUA and for whom it was determined that their primary reliance for income is on their performance of services in their own business or farm. These individuals include independent contractors, gig economy workers, and workers for certain religious entities.

Payments of UI made to replace erroneously paid PUA should not be reported on the ETA 902P, but should be reported on the appropriate UI reports, i.e., ETA 5159.

## **F. Definitions**

1. Effective Date of an Initial Application. Refer to Section C.15 of Attachment I to UIPL No. 16-20, Change 4 for information on effective dates of PUA claims.
2. Eligible. Meets qualifications for receiving Pandemic Unemployment Assistance, as specified in Section 2102 of the CARES Act. If an individual is eligible for UC, EB, or PEUC, such individual is not eligible for PUA and should not be counted in any PUA Activities report.
3. Fraud. An overpayment for which material facts to the determination or payment of a claim are found to be knowingly misrepresented or concealed (i.e., willful misrepresentation) by the claimant in order to obtain benefits to which the individual is not legally entitled. All states have definitions for fraud and impose disqualifications for fraudulent misrepresentation to obtain or increase benefits.
4. Identity (ID) Theft. The crime of obtaining and using the personal or financial information of another individual to file or attempt to file a claim for UI benefits.
5. Identity Theft Overpayments (cases) Established. Any single issue involving an ID theft overpayment that has been determined for a claimant within a single calendar month and for which: 1) a formal notice of determination has been issued, or 2) a formal notice of determination has not been issued, since ownership of the ID theft overpayment has not been assigned, due to a state's inability to identify the individual responsible for generating the ID theft overpayment. An ID theft overpayment that covers one or more weeks (or partial weeks) of benefits shall be counted as one ID theft case if all weeks of ID theft overpayments are included in the same notice of determination. An ID theft overpayment covering consecutive weeks of benefits that span two months should be reported for the month in which the notice of determination is issued, or if no notice of determination is issued, report when the investigation reaches conclusion. This does not include overpayments established as a result of failure to report issues where the claimant did not

respond or failed to provide sufficient information to verify identity.

6. Overpayments (cases) Established. Any single issue involving an overpayment that has been determined for a claimant within a single calendar month and for which a formal notice of determination has been issued. An overpayment that covers one or more weeks (or partial weeks) of benefits shall be counted as one case if all weeks of overpayments are included in the same notice of determination. An overpayment covering consecutive weeks of benefits that span two months should be reported for the month in which the notice of determination is issued. Overpayments Established includes all overpayment EXCEPT those involving identity theft. An overpayment should be reported here if such overpayment is established as a result of failure to report issues where the claimant did not respond or failed to provide sufficient information to verify identity.
7. Waived. Section 2102(d)(4) of the CARES 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.c.2.of Attachment I to UIPL No. 16-20, Change 4 for additional detail.

## **G. Item by Item Instructions**

1. Report Period Ended. Enter the month, last day of the month, and four-digit year to which the data relate; e.g., 01/31/2020.
2. State. Enter the two-letter Federal Information Processing Standards (FIPS) State Alpha Code (identical to the two-letter U.S. Postal Service abbreviation) of the state or South Pacific Island jurisdiction as it appears in FIPS Publication 5-2. The National Institute of Standards and Technology issued the FIPS publication on May 28, 1987.
3. Section A. Application and Payment Activities.
  - a. Column 1, Initial Applications. Enter the number of initial applications for PUA taken during the report period. This will equal the number of initial applications that were completed and/or number of applications entered into an automated system through an electronic/telephone claims taking system during the report period. Do not include individuals eligible for UC where it may have been necessary, due to the filing environment, to accept initial claims for both programs.
  - b. Column 2, Number Determined Eligible. Enter the number of individuals determined eligible for PUA during the report period. Do not include individuals eligible for UC where it may have been necessary, due to the filing environment, to accept initial claims for both programs.

- c. Column 3, First Payments. Enter the number of payments which represent, for any individual, the first week for which assistance is paid in the pandemic assistance period.
  - d. Column 4, Weeks Claimed. Enter the total number of weeks for which PUA is claimed during the report period whether or not PUA is actually paid. If claims are filed weekly, the number of weeks will equal the number of weekly received during the report period. If claims are filed other than weekly claims, the number of weeks will equal the number of weeks during the report period.
  - e. Column 5, Weeks Compensated. Enter the number of weeks of unemployment for which PUA was paid during the report period. A week of unemployment compensated is any week of unemployment for which PUA funds are paid, regardless of amount.
  - f. Column 6, Amount Compensated. Enter the amount of PUA funds represented by the weeks reported in column 5.
  - g. Column 18, Final Payments. Enter the number of final payments made to claimants for PUA. A final payment for PUA is defined as the last PUA payment a claimant receives during the pandemic assistance period because the claimant has exhausted their entitlement to the program. Excluded from the definition is the last payment to an individual if, but for the end of the pandemic assistance period, the individual would otherwise be entitled to further PUA benefits.
4. Section B. Denial and Appeals Activity.
- a. Column 7, Weeks of PUA Denied. Enter the number of weeks of unemployment where a PUA payment was denied for which an individual, except for the reason of the denial, would have been eligible to receive a PUA payment.
- NOTE: For columns 8 through 13, the entries refer to the number of cases received or disposed of during the report period by authority (i.e., first level state appeals authority and the second level state higher authority). All cases, including cases disposed of before reaching the appeals authority, should be included. Definitions of case, authority, disposal, etc., are those developed for the PUA program where found or, when these do not exist, are those used in the state UI program.
- b. Columns 8 and 9, Appeals Filed. In columns 8 and 9, distribute, by type of authority, the appeal cases or requests for review received during the month. In addition, provide a sub-breakout of the Total for self-employed individuals in line 202.

- c. Columns 10 and 11, Appeals Disposed. Enter in columns 10 and 11 the total number of cases disposed during the month by authority level. In line 202, provide the number of cases disposed of involving self-employed individuals.
  - d. Columns 12 and 13, Favor of Appellant. Enter in columns 12 and 13 the number of appeal decisions included in columns 10 and 11, which were in favor of the appellant by authority level. In line 202 enter a breakout of self-employed individuals who appealed and had the decision in their favor.
5. Section C. Overpayment Activity and Administration (all activity EXCEPT for Identity Theft).
- a. Columns 14, 15, and 16, Overpayments Established. In column 14, Cases, line 301, enter the number of cases established, including willful misrepresentation (fraud) determined during the report period as an overpayment. In line 302 provide a sub-breakout of the number of cases determined as fraud cases. In column 15, Weeks, enter in line 301 the number of weeks of PUA overpaid in connection with the cases reported in column 14; enter the number of weeks of fraud overpayments included in line 302 In column 16, Amount, enter in line 301, the amount overpaid represented by cases reported in column 14. Provide a sub-breakout of the amount involving fraud in line 302.
  - b. Column 16A Overpayment Recoveries. In column 16A, Amount, enter in line 301, the total amount of all PUA recoveries collected for the reporting period. Provide a sub-breakout of the amount of recoveries involving fraud in line 302.
  - c. Columns 17, Administrative Costs. This data cell will self-populate and reflect computed administrative costs based on workload items reported in Section A. and Section B. above. Minute per unit factors reflected in the annual UIPL advisory communicating target allocations for base administrative grants and staff year usage information from the UI-1 report will be used to compute staffing levels needed to process the initial claims (line 101 column 1), weeks claimed (line 101 column 4) and appeals disposed (line 201 column 10) workload. Staff salary rates will reflect the rates used for quarterly above base computations. Staffing costs will be increased by the applicable factor to account for leave and resulting costs will be increased by 19 percent to account for overhead.

Time factors and staff salary rates necessary for the computations of administrative costs described above for Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of

Micronesia, the Republic of the Marshall Islands, and the Republic of Palau will be communicated to each territory separately.

- d. Columns 22, Waived. In column 22, Amount, enter in line 301, the total amount of all PUA overpayments waived for the reporting period.
6. Section D. Overpayment Activity Related to Identity (ID) Theft.
    - a. Columns 19, 20, and 21 ID Theft Overpayments Established. In column 19, Cases, line 401, enter the number of ID theft cases established, including willful misrepresentation (fraud) determined during the report period as an ID theft overpayment. In line 402 provide a sub-breakout of the number of ID theft cases determined as ID theft fraud cases. In column 20, Weeks, enter in line 401 the number of weeks of PUA overpaid in connection with the ID theft cases reported in column 19; enter the number of weeks of ID theft fraud overpayments included in line 402. In column 21, Amount, enter in line 401, the amount overpaid represented by ID theft cases reported in column 19. Provide a sub-breakout of the amount involving ID theft fraud in line 402.
    - b. Column 21A ID Theft Overpayment Recoveries. In column 21A, Amount, enter in line 401, the total amount of all PUA ID theft recoveries collected for the reporting period. Provide a sub-breakout of the amount of ID theft recoveries involving fraud in line 402.

## H. Checking the Report

1. General Checks. Entries should be made for all required items. If the item is inapplicable, or if applicable but no activity corresponding to the items occurred during the report period, a zero should be entered. A report containing missing data cannot be sent to the National Office but can be stored on the state's system.
2. Arithmetic Checks.
  - a. For columns 1, 2, and 8 through 13, the entries in line 102 and 202 respectively, should be equal to or less than the entries in line 101 or 201.
  - b. For columns 14 through 16A, the entries in line 302 should be equal to or less than line 301.
  - c. For columns 19 through 21A, the entries in line 402 should be equal to or less than line 401.
3. Signature. Signature is only required if reports are sent manually to the National Office.

**Instructions for Completing the SF-424**

Application for Federal Assistance (SF-424)

Use the current version of the form for submission. Expired forms will not be accepted. SF-424, Expiration Date 12/31/2022, Office of Management and Budget (OMB) Control No. 4040-0004 (Grants.gov). [https://apply07.grants.gov/apply/forms/sample/SF424\\_4\\_0-V4.0.pdf](https://apply07.grants.gov/apply/forms/sample/SF424_4_0-V4.0.pdf)

**Section # 8, APPLICANT INFORMATION:**

- Legal Name: The legal name must match the name submitted with the System for Award Management (SAM). Please refer to instructions at <https://www.sam.gov>
- Employer/Tax Identification Number (EIN/TIN): Input your correct 9-digit EIN and ensure that it is recorded within SAM.
- Organizational DUNS: All applicants for Federal grant and funding opportunities are required to have a 9-digit Data Universal Numbering System (D-U-N-S®) number, and must supply their D-U-N-S® number on the SF-424. Please ensure that your state is registered with the SAM. Instructions for registering with SAM can be found at <https://www.sam.gov>. Additionally, the state must maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration. To remain registered in the SAM database after the initial registration, there is a requirement to review and update the registration at least every 12 months from the date of initial registration or subsequently update the information in the SAM database to ensure it is current, accurate, and complete. Failure to register with SAM and maintain an active account will result in a rejection of your submission.
- Address: Input your complete address including Zipcode+4; Example: 20110-831. For lookup, use link at <https://tools.usps.com/go/ZipLookupAction!input.action>
- Organizational Unit: Input appropriate Department Name and Division Name, if applicable
- Name and contact information of person to be contacted on matters involving this application. Provide complete and accurate contact information including telephone number and email address for the point of contact

**Section # 9, Type of Applicant 1:** Select Applicant Type: Input “State Government”

**Section # 10, Name of the Federal Agency:** Input “Employment and Training Administration”

**Section # 11, Catalog of Federal Domestic Assistance Number:** Input “17.225”; CFDA Title; Input “Unemployment Insurance”

**Section # 12, Funding Opportunity Number and Title :**

For Pandemic Unemployment Assistance Funding Allotment:  
Input “UIPL No. 16-20, Change 6, Pandemic Unemployment Assistance Implementation Grants”

**Section # 13, Competition Identification Number:** Leave Blank

**Section # 14, Areas Affected by Project:** Input the place of performance for the project implementation; Example “NY” for New York

**Section # 15, Descriptive Title of Applicant’s Project:**

For Pandemic Unemployment Assistance Funding Allotment:  
Input “UIPL No. 16-20, Change 6, Pandemic Unemployment Assistance Implementation Grants”

**Section # 16, Congressional Districts of:**

- a. Applicant: Input the Congressional District of your home office. For lookup, use link at [www.house.gov](http://www.house.gov) with Zipcode + 4
- b. Program/Project: Input the Congressional District where the project work is performed. If it’s the same place as your home office, input the congressional district for your home office. For lookup, use link at [www.house.gov](http://www.house.gov) with Zipcode+4

**Section # 17, Proposed Project**

- a. Start Date: Input a valid start date for the project (earliest start date will be January 1, 2021).
- b. End Date: Input a valid end date for the project (June 30, 2022).

**Section # 18, Estimated Funding (\$):**

Each state is allotted up to \$100,000 in funding to cover implementation costs.

**Complete Section #s 19 – 20:** Complete as per instructions in Form SF-424

**Section # 21, Authorized Representative:** Please select the “I AGREE” check box and provide complete information for your authorized signatory including contact information such as telephone number and email address. If your Authorized Representative has changed from your previous application submission for this program, please include a letter from a higher level leadership authorizing the new signatory for the application submission.

**Remember to get the SF-424 signed and dated by the Authorized Representative.**

**Biography of Office of Unemployment Insurance  
Administrator – Jim Garner**

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## Biography of OUI Administrator - Jim Garner

**Jim Garner** started serving as the Administrator of the Office of Unemployment Insurance in the U.S. Department of Labor's Employment and Training Administration on July 4, 2021. Previously, he served nine years as the Deputy Administrator of the Office of Unemployment Insurance. Prior to his federal service, Jim was appointed by Kansas Governor Kathleen Sebelius to serve as the Secretary of Labor for the State of Kansas, a position he held for eight years (2003-2011). In that position, he was the senior executive and policy maker of the agency that administered the state's unemployment insurance program, workers compensation program, employment standards laws, workplace safety program, labor market information services and public employers-employees relations laws. He also was elected to six terms (12 years) as a member of the Kansas House of Representatives, including serving four years as the Minority Leader of this legislative body.



Jim grew up in the southeast Kansas town of Coffeyville and is a graduate of Coffeyville Community College. He earned a Bachelor of Arts degree in history from the University of Kansas and a Juris Doctor degree from the University of Kansas, School of Law. Following law school, Jim served a two-year appointment as a judicial law clerk for U.S. District Judge Dale E. Saffels. In August 2016, Jim graduated from the Federal Executive Institute's Leadership for a Democratic Society program.



# **Office of Unemployment Insurance Organization**

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# Office of Unemployment Insurance Organization

## OFFICE OF THE ADMINISTRATOR

Jim Garner, Administrator

(vacant), Deputy Administrator

Jennifer Garrett, Management & Program Analyst

Mark Peavy, Administrative Program Advisor

Johnnese Hawkins, Executive Assistant

## OUI Regional Directors & Associate Regional Directors

### DIVISION OF UNEMPLOYMENT INSURANCE OPERATIONS

Stephanie Garcia, Division Chief

Federal Programs Team: Candace Edens, Supervisor

State Programs Team: David King, Supervisor

UI Tax Team: Patrick Holmes, Supervisor

### DIVISION OF LEGISLATION

Michelle Beebe, Division Chief

Larry Burns, Workforce Development Specialist

State Conformity & Compliance Team: Daniel Hays, Supervisor

Federal Legislation Team: (vacant), Supervisor

### DIVISION OF FISCAL AND ACTUARIAL SERVICES

Thomas Stengle, Division Chief

Actuarial Team: Kevin Stapleton, Supervisor

Budget/Trust Fund Management Team: Cyndi Greene, Supervisor

Reporting Team: (vacant), Supervisor

## **DIVISION OF PERFORMANCE MANAGEMENT**

(vacant), Division Chief

Program Integrity Team: Rhonda Cowie, Supervisor

Data Analysis and Data Validation Team: (vacant), Supervisor

Program Planning and Business Support Team: Dennis Austin Supervisor

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Created: March 29, 2004

Updated: August 30, 2021

### **Employment and Training Administration**

U.S. Department of Labor | Frances Perkins Building, 200 Constitution Ave NW, Washington, DC 20210

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