

**BLOG POST / EMPLOYMENT ADVISOR**

Employment Counseling

# CARES Act Extends Unemployment Insurance Benefits to Independent Contractors

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The federal Coronavirus Aid, Relief and Economic Security Act (CARES Act) seeks to bolster state unemployment insurance programs by establishing the Pandemic Unemployment Assistance program. The program broadens eligibility to independent contractors and supplements both the amount (adding \$600) and length (adding 13 weeks) of each state's available benefits.

See [here](#) for our blog on the CARES Act, and [here](#) for our blog on the unemployment insurance benefits aspect.

To assist with administering the Pandemic Unemployment Assistance program, the U.S. Department of Labor recently issued [guidance](#) to states,

along with resources for workers to find unemployment offices. While many states are still working to integrate the program into their existing unemployment insurance benefits systems, certain details are evident.

### **Independent Contractors May Be Eligible for Unemployment Insurance Benefits**

Independent contractors – who normally are not be eligible for unemployment insurance benefits since they are not employees – are now eligible. The Pandemic Unemployment Assistance program under the CARES Act provides federal funding for unemployment insurance benefits for independent contractors who have significantly reduced income as a result of the COVID-19 pandemic.

The U.S. Department of Labor’s guidance materials specifically instruct the states to provide Pandemic Unemployment Assistance program benefits to qualifying independent contractors. Any worker who can answer “yes” to each of the following questions is eligible for unemployment insurance benefits:

- **Are you able to work and available to work?**
- **Are you out of work—or were your working hours diminished—through no fault of your own (e.g., you were not fired for misconduct)?**
- **Are you ineligible for regular or extended unemployment insurance benefits under the laws of your state?** Workers who can answer “yes” to this question include:
  - Independent contractors;
  - Sole proprietors;
  - Workers who have not worked enough hours within the past 18 months to qualify for regular unemployment insurance benefits; and
  - Workers who have exhausted their rights to regular or extended unemployment insurance benefits.

• **Can you truthfully self-certify that *at least one* of the following eleven scenarios (or a similar scenario) applies to you?**

1. You are an independent contractor with 1099 reportable income (e.g., a rideshare driver) and the COVID-19 emergency has severely limited your ability to continue performing your customary work activities.
2. Your place of employment has shut down as a result of an emergency declaration or due to necessary social distancing protocols.
3. You are unable to reach your place of employment because leaving home would violate a COVID-19-related order restricting travel.
4. You were scheduled to begin a new job but cannot because going to work would violate COVID-19-related travel restrictions or your employer rescinded your job offer because of the COVID-19 emergency.
5. You had to quit your job or otherwise stop working because you were diagnosed with COVID-19 or have COVID-19 symptoms and are seeking a medical diagnosis.
6. You have been advised by a qualified medical professional to self-quarantine because you have a compromised immune system or have been in contact with a person who has been diagnosed with COVID-19.
7. You were previously diagnosed with COVID-19 and have recovered. However, as a result you had to quit your job because you now have health complications that leave you medically unable to perform your essential job functions either with or without a reasonable accommodation.
8. You are unable to work because a member of your household has been diagnosed with COVID-19.
9. Your ability to work is severely limited because you are providing ongoing and constant care for a family member or

other member of your household who has been diagnosed with COVID-19.

10. You unable to either go to work or to work from home because you are the primary caregiver for a child or other dependent person whose school or other facility has been closed, and you have to stay home to care for that child or other dependent person.

11. You have become the “breadwinner or major support” for your household because the head of your household has died as a result of COVID-19.

- **Are you unable to telework for the same pay you would ordinarily receive?**
- **Are you *not* receiving paid sick leave or similar paid leave benefits that provide for the same pay you would ordinarily receive?**

### **Calculating Unemployment Insurance Benefits**

The Pandemic Unemployment Assistance program is administered by the states through their unemployment insurance agencies. The U.S. Department of Labor has a [website](#) to locate the unemployment insurance agency in each state.

States are instructed to use federal disaster benefit guidelines to calculate the weekly benefit amount for independent contractors.

On top of the state unemployment insurance benefits (UI) entitlement, the CARES Act impacts unemployment insurance by adding the:

- *Emergency Increase in Unemployment Compensation Benefits*, which provide an additional **\$600 per week** to all unemployment insurance claims through July 31, 2020.
- *Pandemic Emergency Unemployment Compensation* program, which provides workers with an additional **13 weeks** to regular state unemployment insurance benefits.

For instance, a California worker may receive unemployment insurance benefits for up to 39 weeks, with a maximum of \$1,050 per week through July 31, 2020, after which point the maximum will be \$450 per week. Before the CARES Act, it was a maximum of \$450 per week for up to 26 weeks.

[Here](#) is a link that provides a helpful resource for determining the maximum unemployment benefits available in each state.

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The facts, laws, and regulations regarding COVID-19 are developing rapidly. Since the date of publication, there may be new or additional information not referenced in this advisory. Please consult with your legal counsel for guidance.

DWT will continue to provide up-to-date insights and virtual events regarding COVID-19 concerns. Our most recent insights, as well as information about recorded and upcoming virtual events, are available at [www.dwt.com/COVID-19](http://www.dwt.com/COVID-19).

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