

**Unemployment Compensation
The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
March 27, 2020**

The Bipartisan Policy Center (BPC) and the Committee for Economic Development (CED) of The Conference Board worked together to produce this summary of the unemployment compensation provisions included in the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) specifically for child care providers.

It is our hope that this brief may be helpful to those in the child care field who may need to access unemployment compensation at this time.

Unemployment Compensation Support for Child Care Providers

Federal law provides broad guidelines for states to administer unemployment compensation programs. This means that states individually determine eligibility, minimum and maximum benefits, and the duration of benefits.

Most states pay benefits for up to 26 weeks, however, some states offer less. For example, Arkansas limits benefits to 16 weeks and Michigan, Missouri, and South Carolina limit benefits to 20 weeks.

While weekly benefits are related to prior earnings, maximum benefits range from \$235 per week in Mississippi to \$795 per week in Massachusetts. On average, unemployment compensation replaces about 40 percent of a worker's pay.¹

In general, state unemployment compensation programs do not cover the self-employed. In addition, states generally exclude those who are unable to work from receiving unemployment. Given the extraordinary nature of the effort to curb community spread of COVID-19 as well as the impact of COVID-19 on those who have become sick, who must care for a sick family member, or

who must stay home to care for children due to the closure of K-12 schools, Congress temporarily expanded the unemployment compensation program in an effort to provide compensation to individuals who have been impacted by the COVID-19 national emergency and to supplement the ability of state unemployment programs to support the influx of applicants.

CARES Act: Unemployment Relief for Workers Affected by the Coronavirus

State Agreements. Because each state operates its own unemployment compensation program, the unemployment compensation changes under the CARES Act will require each state (or territory) to enter into an agreement with the U.S. Department of Labor in order to receive federal funding to both administer the benefits and pay for the federal portion of the benefits as described below.

While it is likely, as unemployment claims increase, that all states will opt-in to the additional unemployment assistance, it is not required. Because state agreements may be submitted and approved at different times, and state capacity to implement the changes may differ, it is very likely that state implementation will vary. To compensate for staggered implementation, payment of benefits will be retroactive.

In addition, the U.S. Department of Labor is instructed to establish a process for making assistance available for weeks beginning on or after January 27, 2020, and before the date of enactment of the CARES Act.

Eligibility. In general, everyone eligible through state rules plus those who are self-employed, independent contractors, or who were unable to start a new job or contract due to the COVID-19

pandemic will receive unemployment compensation through their state program or through the new federal Pandemic Unemployment Compensation program for those who don't qualify for state assistance. A detailed list of those who are eligible for the new federal benefit is included at the end of this document.

Benefits. Individual benefits for those who receive assistance under their state unemployment program will continue to vary. However, regardless of the state, an additional \$600 per week in temporary federal Pandemic Unemployment compensation will be added to their weekly benefit amount.

For those who are not currently eligible for state programs, the temporary federal Pandemic Unemployment Compensation program will fund states to pay both a base benefit based on earnings and rules from their state plus the \$600 weekly supplement.

Receipt of the \$600 weekly unemployment supplement will not affect eligibility for Medicaid or State Children's Health Insurance Programs.

States can pay both regular benefits and the \$600 weekly supplement in the same check or may separate payments, however, they must be paid the same week.

The implementation of these benefit changes depends on states entering into an agreement with the U.S. Department of Labor as previously mentioned.

Why did Congress increase weekly benefits by \$600?

There were several reasons why Congress supplemented state unemployment programs.

- Unemployment compensation is a system that is designed to pay a base level of benefits as determined by each state, which is limited and at a level that incents seeking employment. Generally, states provide benefits that are lower than an individual's

earnings so that there is no incentive to stay home (and not work).

- At this time with COVID-19 community spread, many governors and community leaders have ordered all nonessential workers to stay home. Businesses have closed and many have laid people off during this uncertain time. Congress provided the \$600 per week to supplement state benefits so that people would stay home and not seek work, an important health policy that overrides the original purpose of state unemployment compensation programs that were designed with the intent to motivate recipients to look for work.

Duration of Unemployment Compensation. All states are eligible to offer an additional 13 weeks of unemployment compensation through December 31, 2020, to individuals applying for assistance. The additional \$600 per week, however, currently ends after July 31, 2020. The total number of weeks for which an individual may receive assistance shall not exceed 39 weeks.

Expediting the Receipt of Unemployment Compensation. Many states have a one-week waiting period that delays the receipt of unemployment benefits for applicants. In order to expedite the receipt of benefits, the federal government will fully cover the cost of the first week of unemployment compensation through December 31, 2020, for states that choose to waive their current one week-delay.

Unemployment Taxation. Unemployment compensation, similarly to wages, is subject to taxation.

How do people apply for either their state unemployment compensation program or the new federal Pandemic Unemployment Compensation Program?

State agencies that operate unemployment compensation programs will administer all benefits. In other words, state labor departments will be a one-stop shop where individuals can apply for regular state unemployment compensation or the new federal Pandemic Unemployment Compensation Program.

To find your state's unemployment compensation agency:

<https://www.careeronestop.org/LocalHelp/UnemploymentBenefits/find-unemployment-benefits.aspx>

To find your state's minimum and maximum weekly unemployment benefits:

<https://oui.doleta.gov/unemploy/content/sigpros/2020-2029/January2020.pdf>

Short-Time Compensation Programs. Some workers may not be laid off. Instead, their hours may be reduced. States interested in setting up Short-Time Compensation (STC) programs, also referred to as work-sharing programs, allow employers to enter into an agreement with state labor departments to reduce hours instead of laying people off which would enable eligible workers to receive partial unemployment benefits to help fill the gap. Currently, 27 states have STC programs, which are designed to avoid lay-offs and are completely funded by states.² Under the CARES Act, the federal government would temporarily provide funding for interested states. Rules will be forthcoming from the Department of Labor.

A brief overview of STCs is located:

https://oui.doleta.gov/unemploy/docs/stc_fact_sheet.pdf

Fraud and Overpayments. If an individual knowingly has made a false statement or representation of a material fact that leads to an individual receiving unemployment compensation in an amount to which the individual is not entitled, the individual:

- will be ineligible for further federal Pandemic Unemployment Compensation, and
- shall be subject to prosecution under section 1001 of title 18, United States Code.

Repayment. In the case of individuals who have received amounts of federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such

individuals to repay the amounts of such compensation, except that the State agency may waive such repayment if it determines that:

- the payment of such federal Pandemic Unemployment Compensation was without fault on the part of any such individual; and
- such repayment would be contrary to equity and good conscience.

Opportunity for a Hearing. No repayment shall be required, and no deduction shall be made, until a determination has been made, notice made and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

Any determination by a State shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law.

Next Steps. As more guidance is released from the U.S. Department of Labor, BPC and CED will provide additional updates. States interested in participating in the federal Pandemic Unemployment Compensation program will need to have agreements in place that are approved by the U.S. Department of Labor before implementing any of the changes. Such agreements may depend on additional clarifications from the department.

In the meantime, a more detailed description of those individuals who will qualify for the new federal Pandemic Unemployment Compensation Program follows. These definitions are from the CARES Act statute.

Details: Covered Individuals
Under New Pandemic Unemployment Assistance Program

The CARES Act provides Pandemic Unemployment Assistance to any individuals below who provide self-certification that they are otherwise unemployed, partially unemployed or unavailable to work and are not entitled to any other unemployment compensation because:

- the individual has been diagnosed with COVID–19 or is experiencing symptoms of COVID–19 and seeking a medical diagnosis,
- a member of the individual’s household has been diagnosed with COVID–19,
- the individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID–19,
- 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,
- 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,
- 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,
- 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,
- 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,
- the individual has to quit his or her job as a direct result of COVID–19,
- the individual’s place of employment is closed as a direct result of the COVID–19 public health emergency; or
- the individual meets any additional criteria established by the Secretary for unemployment assistance under this section, or
 - is self-employed, is seeking part-time employment, does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law, and does not include:
 - an individual who has the ability to telework with pay, or
 - an individual who is receiving paid sick leave or other paid leave benefits, regardless of whether the individual meets a qualification described above.

Source: The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), <https://www.congress.gov/116/bills/hr748/BILLS-116hr748eas.pdf>

¹ U.S. Department of Labor, Employment and Training Administration, UI Replacement Rates. https://oui.doleta.gov/unemploy/ui_replacement_rates.asp

² U.S. Department of Labor, Employment and Training Administration, Short-Time Compensation Programs. https://oui.doleta.gov/unemploy/docs/stc_fact_sheet.pdf