

The Coronavirus Aid, Relief, and Economic Security Act ([CARES Act](#)) signed into law on March 27, 2020, provides relief to families, small businesses, and individuals who are self-employed and independent contractors. [View Your Guide to PUA Benefits](#) to find out how to apply. A key provision in the law creates a temporary “Pandemic Unemployment Assistance” (PUA) program that extends unemployment benefits to those not traditionally eligible, including self-employed individuals. [See and share the Pandemic Unemployment Assistance Benefits flowchart](#) to learn more about the unemployment benefits for 1099 workers. Below is a summary of the program, updates from Advisories issued by the U.S. Department of Labor (DOL) to state workforce agencies implementing the program. [Check out this interactive map of the US](#) to learn about the status of the program in your state.

VIDEO – [PUA & YOU: The Pandemic Unemployment Assistance Guide for REALTORS[®]](#): Applying for Pandemic Unemployment Assistance (PUA) can prove to be a challenging puzzle. In this video, two labor and employment attorneys and two REALTORS[®] share their expertise and offer advice on the unemployment application process.

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Pandemic Unemployment Compensation Eligibility

1. I'm an independent contractor, am I eligible for unemployment benefits?

The PUA program is a temporary program that provides assistance to individuals, including self-employed and independent contractors, who are fully or partially unemployed as a direct result of the COVID-19 public health emergency, beginning **January 27, 2020 through December 31, 2020**. Individuals who are eligible for PUA compensation are:

- NOT eligible for regular compensation benefits or extended benefits under state or federal law; AND
- Can self-certify that he or she is able and available to work, but who is unable to work due to COVID-19 such as:

Additional Resources:

- [Filing for Unemployment Insurance](#)
- [State Unemployment Office Information](#)
- [DOL Coronavirus Resources](#)



movement restrictions, employment closures, medical diagnoses, and quarantines. (See Question 8 below for details.)

If an individual is eligible to telework with pay, or has paid sick leave or expanded family and medical leave, they will not be eligible for unemployment assistance. Further, under the law, the U.S. Secretary of Labor is authorized to establish additional eligibility criteria.

These new benefits will be carried out through agreements between each state and the Department of Labor, where more details on eligibility are expected as these programs are implemented.

2. Where do I apply for unemployment compensation benefits?

To apply for unemployment compensation benefits, you must apply through your state labor or employment agency. To find out more information about your state unemployment office, see [here](#).

Each state labor or employment agency participating in the pandemic unemployment assistance (PUA) program will have its own process for accepting unemployment compensation claims and processing those requests. Many states are working to implement the CARES Act, and are creating the proper systems to be able to accommodate all requests for unemployment compensation, including specific applications for independent contractors. It is best to continue to check with your state labor agency or unemployment office to find out how and when to apply.

Because the unemployment claims process is now being extended to independent contractors, under the CARES Act there may be questions asked that do not apply (i.e. who is your employer). As states update their processes to extend the benefits, these questions and claims forms may change. It is recommended that all questions be answered thoroughly and honestly for accuracy in PUA benefit determinations conducted by the state.

3. Real estate services have been deemed “essential” in my state, does this mean I’m ineligible for the new unemployment benefits for self-employed?

No. There is nothing in the CARES Act or guidance issued by the U.S. Department of Labor to date that states individuals from “essential” industries would be ineligible to receive unemployment compensation benefits under the PUA program in accordance with a state order. Even if real estate related activities are deemed essential, it does not necessarily mean that an individual is working and receiving compensation. For this purpose, whether an industry is “essential” is not relevant to the test as to whether an individual is eligible to receive unemployment compensation. Individuals are encouraged to apply for



unemployment if they have been fully or partially unemployed due to an inability to work, as a result of the COVID-19 public health emergency. Individuals should check with their state labor agency or unemployment office to determine eligibility and claims filing information. To the extent a state changes the eligibility requirements for PUA to exclude “essential” workers, the state could be risking DOL canceling its agreement with the state and ceasing full funding of PUA benefits.

4. As an independent contractor, can I apply for unemployment compensation benefits and still accept work?

Yes. Independent contractors and self-employed individuals can apply for full or partial unemployment compensation benefits for weeks that their work has been impacted due COVID-19, if they live in a state that is participating in the pandemic unemployment assistance (PUA) program with the U.S. Department of Labor. Most states require individuals receiving unemployment compensation to search for work. However, state laws and regulations will govern the conditions related to work availability and what constitutes “active work,” while receiving unemployment benefits. Additional flexibility on states’ search for work requirements has also been provided under recent federal legislation.

5. If I am able to telework (or work remotely), but unable to fully close transactions or complete work to receive compensation, am I ineligible for benefits?

No. The law states that if an individual is eligible to telework *with pay*, they will *not* be eligible for unemployment assistance. Individuals who can telework with pay for the same number of hours of work that they would normally work will not be eligible for unemployment compensation. Individuals who are able to partially telework for pay still may be eligible to apply for “partial unemployment” benefits, if their work has been impacted as a result of the COVID-19 public health emergency and has resulted in a loss of income. It may be useful to keep track of total hours worked to help estimate the percentage of time worked for pay, as states’ requirements for reporting unemployment eligibility vary. For individuals who are teleworking for fewer hours and less income, that now-reduced income will likely be deducted from the unemployment benefit amount they are entitled for a given week in accordance with state law.

6. A closing occurred prior to the effective date of the PUA program, but I have not been paid my commission. How does this impact my unemployment eligibility?



It depends! Each state labor or employment agency participating in the pandemic unemployment assistance (PUA) program will have its own system for applying, verifying, and accepting unemployment compensation claims with varied eligibility details. Without guidance from the U.S. Department of Labor or partnering states, it is unclear how earned income prior to being “out of work” may impact unemployment benefit eligibility. It is recommended to apply for the benefits, including detailed financial information for benefits calculations, which may reduce the total benefits (or not pay) for that particular week during which the compensation is received.

- 7. How much in unemployment benefits can I receive and for how long?**
It depends! The CARES Act provides PUA benefits of \$600 per week (only through July 31, 2020, called Federal Pandemic Unemployment Compensation (FPUC)), in addition to the amount provided under a state’s compensation law through December 31, 2020. Typically, states base compensation amounts on an individual’s wages from their most recent tax year, and net income from all self-employment that was reported on an individual’s tax return. States compute a state weekly benefit amount for eligible individuals, based upon state law, and unemployment benefit caps vary among the states. **Individuals can receive up to 39 weeks of PUA benefits through December 31, 2020.** See more on state specific benefits [here](#). The CARES Act also included a provision encouraging states to waive a customary seven day waiting period for the first week to receive benefits.

Individuals who are self-employed or independent contractors are typically not eligible for regular unemployment compensation or extended benefits under state law, and therefore may only be eligible for PUA benefits. These individuals would also not be eligible for Pandemic Emergency Unemployment Compensation (PEUC), which is a 13-week extension of state regular unemployment compensation. When individuals are eligible for regular unemployment compensation, DOL guidance directs the exhaustion and sequencing of benefits under the CARES Act (i.e. exhaustion of state regular unemployment compensation, PEUC, state extended benefits, and then PUA). Additionally, if an individual is eligible and receiving Disaster Unemployment Assistance (DUA), as authorized by the state, they may not be eligible for PUA for that week.

- 8. What factors are considered when determining unemployment benefit eligibility as a result of COVID-19?**
Individual factors that are needed to show unemployment status as a result of COVID-19 include:



- Individuals diagnosed with COVID-19 or experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- A member of an individual's household who has been diagnosed with COVID-19;
- Individuals providing care for a family member, child, or other person within one's household diagnosed with COVID-19;
- Individuals who are unable to reach his or her place of employment because of self-quarantine, due to COVID-19;
- Individuals who were scheduled to begin a work or unable to reach work due to COVID-19;
- Individuals who provide major household support, because the head of the household has died as a result of COVID-19;
- Individuals who have had to quit his or her job as a direct result of COVID-19;
- Individuals whose place of employment is closed as a direct result of COVID-19;
- or
- Individuals who are self-employed, or who would not otherwise qualify for regular unemployment.

This is not an exhaustive list of all qualifying factors that states will use in determining individual benefit eligibility as a direct result of the COVID-19 public health emergency, but these are key factors that states will use in making determinations. States may also consider state emergency declarations, social distancing protocols, and other business closures and restrictions due to the COVID-19 public health emergency.

9. As an independent contractor, what do I need to provide to my state unemployment office for eligibility?

State labor agencies or unemployment offices are responsible for administering unemployment compensation benefits, including accepting and processing applications and verifying individual eligibility for those benefits. For independent contractors and self-employed individuals, states may require prior tax returns (for example, schedule C, F, SE, or K filed with Form 1040), bank statements, profit and loss statements, business licenses, or other business records to assist them in verifying income and making benefit eligibility determinations.

10. What if I have not filed my 2019 taxes or had a net loss in 2019, how will my unemployment benefits be calculated?

If individual has not filed 2019 taxes, the PUA benefit amount will be equal to "50 percent of the average weekly payment of regular compensation" in accordance with the state law. However, individuals may be able to submit taxes and other documentation proving 2019 income. Likewise, a self-employed individual who



reports a net loss in 2019 is eligible for a PUA benefit amount equal to “50 percent of the average weekly payment of regular compensation in the State.” (20 C.F.R. §625.6)

11. Under the CARES Act, can I apply for both unemployment benefits with in my state and also apply for a loan under the SBA programs (Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL))?

At this time, an individual can apply for both, but there is no ability to determine whether an individual will qualify for both the unemployment compensation program and the SBA loan programs (PPP program and EIDL program). There is nothing in the CARES Act or any federal agency guidance currently limiting or preventing independent contractors from receiving both unemployment compensation benefits under PUA and assistance under the SBA loan programs. Independent contractors applying for assistance under the EIDL program will be asked to provide information about compensation from other sources received, as a result of the pandemic, which may include pandemic unemployment compensation benefits, if they are received. Individuals should assess each programs' qualifications when deciding on available options.

12. How will I be notified by my state agency regarding my eligibility to receive unemployment compensation benefits?

State agencies are required to provide notice to individuals in writing regarding the state's determination regarding an individual's eligibility to receive unemployment compensation benefits. If an individual is denied unemployment compensation benefits, the state agency must provide in the written notice information regarding an individual's right to reconsideration or appeal or both.

13. If I am deemed eligible by the state to receive unemployment compensation, how long will it take for me to receive those benefits?

It depends! The time it takes for your state labor agency to determine your eligibility to receive unemployment compensation benefits, and the time it takes for you to receive those benefits will vary. It is important to check with your state labor or employment agency to better understand the processing timeline.

14. If I am deemed ineligible by the state to receive unemployment compensation, what should I do next?

If your state determines that you are ineligible to receive unemployment compensation benefits, then the state is required to provide you with written notice regarding your rights to reconsideration or appeal or both.



15. May I collect unemployment insurance benefits for time in which I receive pay for paid sick leave and/or expanded FMLA leave?

No. If you are eligible for paid sick leave or expanded family and medical leave (FMLA), you are not eligible for unemployment assistance. However, each state has its own unique set of rules; and [DOL recently clarified additional flexibility to the States](#) (UIPL 20-10) to extend partial unemployment benefits to workers whose hours or pay have been reduced. Therefore, individuals should contact their state unemployment office for specific questions about eligibility.

16. May I collect unemployment compensation, if I am receiving social security benefits and was working prior to the COVID-19 pandemic public health emergency?

Yes, you may be eligible to receive pandemic unemployment assistance (PUA) benefits, if you are receiving social security benefits, and were working prior to the COVID-19 public health crisis. In determining your eligibility for PUA benefits, states will consider how your work has been impacted as a result of COVID-19. The state also may deduct the amount you receive in social security benefits from your unemployment compensation entitlement amount that is computed by the state.

17. If I am an independent contractor and I operate my business through a personal LLC or corporations, am I still eligible to receive unemployment compensation under the PUA program?

Yes. Independent contractors who operate their businesses through a personal LLC or corporations are eligible to apply for unemployment compensation benefits under the PUA program. Independent contractors will still need to meet other PUA eligibility requirements, including the ability to show work impact due to the COVID-19 public health emergency. The type of business entity established by the independent contractor to operate his or her business does not matter, so long as the independent contractor's primary income is derived from services performed or provided by the individual's business.

State Participation in the Pandemic Unemployment Compensation Program

1. Is my state required to participate in the Pandemic Unemployment Assistance (PUA) Program?

No. Under the CARES Act, states may participate in the PUA program, and will be fully reimbursed for the compensation paid out, plus administrative costs, if they do so (subject to DOL authority). It is anticipated that all states will participate in



this program, because the CARES Act provides 100 percent federal funding to states for the PUA program and benefits.

Individual states must sign an agreement with the U.S. Department of Labor for the full reimbursement costs to implement the program. Check with your state labor department or unemployment commission to determine PUA participation. To find information on your state labor agency, see [here](#).

2. Is there a list of states that are currently participating in the Pandemic Unemployment Assistance (PUA) program?

While there is not a comprehensive list of states participating in the PUA program or who have entered into agreements with U.S. Department of Labor, it is anticipated that all states will participate in the program, because the CARES Act provides 100 percent federal funding for PUA benefits. States are taking different approaches to implementing the new program benefits, where some have already started to allow workers to apply while others are working to fully understand guidance from DOL. Check with your state labor department or unemployment commission to find out whether your state is planning to participate and the potential eligibility criteria. For more information on state labor agencies, see [here and here](#).

3. How much money will my state receive in Pandemic Unemployment Assistance? Will there be limits on states?

The amount that each state will receive in funds for pandemic unemployment assistance will vary by state. The amount is determined by the U.S. Secretary of Labor based on statistical data and information agreed upon with the state labor agencies. Subject to further legislation and/or guidance from DOL, there are no caps or limits for how much states will receive.

4. How much discretion does my state have in administering Pandemic Unemployment Assistance benefits?

States are reimbursed for 100 percent of all PUA paid benefits (plus administration costs) and must adopt the eligibility parameters set forth in the CARES Act, including eligibility for individuals who are self-employed or individual contractors. *Therefore, states cannot preclude self-employed individuals from claiming PUA benefits.* However, other state policies on unemployment compensation law, will apply to claims for PUA benefits, such as claim filing and reporting, eligibility notices, etc.

5. What if my state is not participating in the Pandemic Unemployment Assistance (PUA) program under the CARES Act?



If your state is not participating in the PUA program under the CARES Act, you should check with your state employment or labor agency to inquire about other state resources available for small businesses, independent contractors, and self-employed individuals. Additionally, SBA loan programs extended under the CARES Act may be an option. For more information regarding the SBA loan programs, please see [here](#).

Broker Related Issues

1. I'm a broker, with independent contractor agents. Will I have to pay anything for my agents to receive unemployment benefits?

Traditionally, state unemployment programs are funded by an employer assessed unemployment tax. The CARES Act extended unemployment benefits to independent contractors for states that sign an agreement with the U.S. Department of Labor for 100 percent reimbursement of compensations paid. At this time, there are no specific details regarding additional state fees or taxes imposed on businesses with independent contractors receiving unemployment benefits under the PUA.

2. I'm a broker, with independent contractor agents. Will I have to verify their "unemployment" status to ensure an agent's eligibility?

It depends! Generally, under state law, employers only have unemployment reporting obligations related to employees and not for independent contractors. Each state labor or employment agency participating in the Pandemic Unemployment Assistance (PUA) program has its own system for applying, verifying, and accepting unemployment compensation claims, including various documentation requirements. As states update their processes to extend the PUA benefits to self-employed individuals, qualifying criteria may change, including potential reporting obligations for companies that utilize independent contractors / self-employed workers who have applied for PUA. It is recommended that all questions presented as an "employer" be answered thoroughly and honestly for accuracy in PUA benefit determinations.

Additional Resources:

[50 State Guide to Workforce Agencies' COVID-19 Response](#)

[U.S. Department of Labor State-by-State Guide to Unemployment Benefit Amounts](#)

DOL Advisories to State Workforce Agencies:

- [Unemployment Insurance Program Letter No. 14-20](#)



Pandemic Unemployment Assistance FAQs

May 1, 2020

- Summary of key Unemployment Insurance (UI) Provisions in the CARES Act and guidance regarding Temporary Emergency State Staffing Flexibility.
- [Unemployment Insurance Program Letter No. 15-20](#) Explains the Federal Pandemic Unemployment Compensation (FPUC) Program operations, financial, and reporting instructions.
- [Unemployment Insurance Program Letter No. 16-20](#)
 - Explains the Pandemic Unemployment Assistance (PUA) Program operations, financial, and reporting instructions.
- [Unemployment Insurance Program Letter No. 17-20](#)
 - Explains the Pandemic Emergency Unemployment Assistance (PEUC) Program operations, financial and reporting instructions.

Stay tuned to [NAR.REALTOR](#) for the latest updates and NAR Federal Advocacy efforts.

