

## **RELIEF FOR WORKS AFFECTED BY CORONAVIRUS ACT**

On March 27, 2020, the federal government enacted the Coronavirus Aid, Relief, and Economic Security Act or CARES Act. The CARES Act contains, among other things, the Relief for Workers Affected by Coronavirus Act, which significantly expands unemployment insurance benefits during the COVID-19 public health emergency. Workers in New York may now be eligible for one or more of the following types of unemployment insurance benefits:

### **Regular Benefits**

Under the New York unemployment insurance law, workers who are unemployed through no fault of their own may be eligible for unemployment insurance benefits of up to \$504 per week for up to 26 weeks. A claimant's work history for the last five completed calendar quarters before they apply for benefits determines whether they can open a claim and, if so, their weekly benefit rate. To receive benefits, a claimant must certify for benefits weekly and meet various requirements, such as being totally unemployed and being ready, willing, and able to work, among other things. A claimant who voluntarily leaves or refuses employment without good cause or loses employment through misconduct is disqualified from receiving benefits and must earn at least ten times their weekly benefit rate in subsequent covered employment to break the disqualification.

### **Pandemic Emergency Unemployment Compensation (PEUC)**

Claimants with a benefit year ending on or after July 1, 2019 (in effect, claimants who opened a claim on or after July 2, 2018) who exhaust their regular benefits may be entitled to an additional 13 weeks of benefits until December 31, 2020.

### **Pandemic Unemployment Compensation (PUC)**

From April 5, 2020 to July 31, 2020, claimants who are otherwise eligible for regular benefits and/or PEUC will receive their regular weekly benefit rate plus an additional \$600.

### **Pandemic Unemployment Assistance (PUA)**

From January 27, 2020 to December 30, 2020, individuals who are not otherwise eligible for benefits and are [unemployed, partially unemployed, or unable or unavailable to work because of the COVID-19 public health emergency](#) may be eligible for PUA. That includes individuals who exhaust their regular benefits and/or PEUC or would traditionally not be eligible for benefits (e.g., self-employed, independent contractors, insufficient work history). The weekly amount of PUA is the weekly benefit rate that an individual would have received if they were otherwise eligible for benefits (including the additional \$600 per week of PUC from April 5, 2020 to July 31, 2020). The maximum duration of regular benefits, PEUC, and PUA that an individual may receive from January 27, 2020 to December 30, 2020 is 39 weeks. Individuals who have the ability to telework with pay or are receiving paid sick leave or other paid leave benefits are not eligible for PUA.

**Summary**

<b>Type of Benefits</b>	<b>Dates</b>	<b>Eligibility</b>	<b>Maximum Weekly Amount</b>	<b>Maximum Duration</b>
Regular Benefits	Before April 5, 2020	Normal rules under New York unemployment insurance law	\$504	26 weeks
	April 5, 2020- July 31, 2020		\$1,104 (including additional \$600 of PUC)	
	After July 31, 2020		\$504 <sup>1</sup>	
Pandemic Emergency Unemployment Compensation (PEUC)	March 27, 2020- April 5, 2020	Claimants with a benefit year ending on or after July 1, 2019	\$504	13 weeks
	April 5, 2020- July 31, 2020		\$1,104 (including additional \$600 of PUC)	
	July 31, 2020- December 31, 2020		\$104 to \$504	
Pandemic Unemployment Assistance (PUA)	January 27, 2020 <sup>2</sup> -April 5, 2020	Individuals not otherwise eligible for benefits and unemployed, partially unemployed, or unable or unavailable to work because of the COVID-19 public health emergency	\$504	39 weeks (including regular benefits and/or PEUC)
	April 5, 2020- July 31, 2020		\$1,104 (including additional \$600 of PUC)	
	July 31, 2020- December 31, 2020		\$504	

**How to Apply**

Claimants who already have an open claim (including those who were denied benefits and have pending hearings or appeals) should continue to certify for benefits weekly but otherwise do not need to do anything to receive PEUC and/or PUC. Claimants who do not already have an open

<sup>1</sup> On October 5, 2020, the maximum weekly benefit rate will increase to 38% of the average weekly wage.

<sup>2</sup> PUA may be paid retroactively.

claim should [apply for benefits](#). Those who are eligible may receive regular benefits plus PUC and/or PEUC. Those who are not eligible for regular benefits and/or PEUC may be eligible for PUA. Claimants should apply for benefits online or by telephone in the first week in which they work fewer than 4 days and earn less than the maximum weekly benefit rate (currently \$504). However, where claimants are unable to do so because of website traffic or call volume, the New York State Department of Labor has indicated that it will backdate claims. Currently, the only advice for claimants who are unable to apply for benefits because of website traffic or call volume is to keep trying and be patient.

### **Partial Unemployment**

Individuals whose wages and/or hours are reduced because of the COVID-19 public health emergency may or may not be eligible for benefits. A claimant who works 4 or more days in a week, regardless of how much they earn, is not eligible for benefits for that week. A claimant who earns more than the maximum weekly benefit rate (currently \$504) for a week, regardless of how many days they worked, is not eligible for benefits for that week. A claimant who works fewer than 4 days and earns less than the maximum weekly benefit rate may be eligible for partial benefits. Any activity that brings in or may bring in income at any time, even if it is only an hour or less, and even if the worker is not paid, counts as a day of work.

### **Eligibility and Disqualification**

It is possible that some existing rules will be relaxed because of the COVID-19 public health emergency, and it is too early to know how some existing rules will be applied to unprecedented facts arising from the COVID-19 public health emergency. Meanwhile, except where [guidance from the New York State Department of Labor](#) says otherwise, claimants should assume that all of the [normal rules under New York unemployment insurance law](#) apply. For example, a claimant who voluntarily leaves their job without good cause or loses their employment through misconduct, even during the COVID-19 public health emergency, may still be disqualified from receiving benefits.

### **Recoverable Overpayments and Willful Misrepresentations**

Under the New York unemployment insurance law, overpayments of benefits based on factually false statements (including concealments) are recoverable, and willful misrepresentations can result in the imposition of forfeiture penalties (1 week of future benefits for each willful misrepresentation that does not result in an overpayment, 2 weeks of future benefits for each willful misrepresentation that results in an overpayment, and 20 weeks of future benefits for flagrant fraud) and, where the willful misrepresentation results in an overpayment, monetary penalties (the greater of \$100 or 15% of the overpayment). These rules remain in effect, and the Relief for Workers Affected by Coronavirus Act incorporates and/or supplements these rules. While coverage under the Act is broad, it is not unlimited. Accordingly, claimants should confirm that any statement that they make on an application for benefits or other communication with the New York State Department of Labor is factually true and, if necessary, can be supported by evidence.