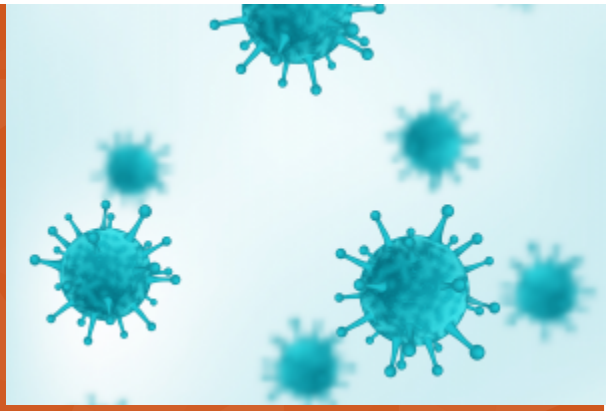
COVID-19 Alert: Enhanced Unemployment Benefits

President Issues New Executive Order on Enhanced Unemployment Benefits

August 13, 2020



On August 8, 2020, President Trump issued four executive orders in response to the COVID-19 pandemic. One of the President's executive orders (the "EO") directs the Federal Emergency Management Agency (FEMA) to begin paying additional unemployment benefits from the Department of Homeland Security's Disaster Relief Fund (DRF) at a rate of $400 per week on top of regular unemployment benefits. The enhanced unemployment benefits will be retroactive to August 1, 2020 and will continue until December 6, 2020 – or until the balance of the DRF drops to $25 billion – whichever happens first. According to the EO, there is currently about $70 billion in the DRF.

The DRF will cover $300 of the $400 weekly enhanced benefit – with states picking up the additional $100 per week from funds allocated to them from the Coronavirus Relief Fund (CRF) (created from the CARES Act).

Like the original benefits provided under the CARES Act, unemployed workers will be eligible for the new $400 per week if they otherwise qualify for regular unemployment compensation, Pandemic Emergency Unemployment Compensation (PEUC) under the CARES Act, Pandemic Unemployment Assistance (PUA) under the CARES Act, Extended Benefits, Short-Time Compensation, or several other discrete programs. However, unlike the previous Federal Pandemic Unemployment Compensation (FPUC) benefits, the EO disqualifies workers receiving *less than $100 per week* in unemployment benefits. Under the FPUC, workers who received at least $1 in unemployment benefits qualified for the additional $600 per week.

It is unclear when workers may see these enhanced unemployment benefits. While the EO makes clear that workers will be eligible for the enhanced benefits beginning the week ending August 1, 2020 (the FPUC benefits ended July 31, 2020), states will need time to get the new system set up and to receive funding. Once up and running, eligible workers will collect retroactive benefits, but that could be a matter of weeks, or months, in some cases. Like regular unemployment benefits, workers will apply through their individual state's unemployment office and be subject to that state's unemployment program requirements, such as any work search criteria.

There is also speculation that the President's EO may be challenged on constitutional grounds. The EO invokes the President's powers under the Stafford Disaster Relief and Emergency Assistance Act; however, constitutional scholars debate whether the invoked section can be used to fund unemployment benefits in this manner without the specific authorization of Congress. For now, however, eligible workers should continue to apply for their regular unemployment benefits through their state and comply with any state-specific eligibility requirements to remain qualified for the enhanced benefits.

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