

COVID-19 Alert: Unemployment Insurance

Unemployment Options Under the Massachusetts Emergency Regulations

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With U.S. unemployment rates hitting 26 million this week, businesses and individuals alike are grappling with understanding both new and existing unemployment laws. The newly enacted CARES Act provides new and expanded emergency options, which are now being adopted and implemented by the individual states. Massachusetts implemented Emergency Regulations to assist employees and employers with unemployment insurance during COVID-19 and to help implement portions of the CARES Act. Now, Massachusetts employers are pressed to understand what options are available so they can adopt strategies to put their employees in the best positions to maintain wage rates.

Federal Pandemic Unemployment Compensation (FPUC)

For employees who are laid off due to COVID-19 or otherwise qualify for unemployment insurance benefits under the various outlined programs, the CARES Act authorized an additional \$600 per week until July 31, 2020. Massachusetts is implementing these FPUC payments for individuals who are eligible to receive unemployment benefits through the Department of Unemployment Assistance (DUA).

Pandemic Unemployment Assistance (PUA)

Under the newly enacted CARES Act, states are permitted to provide Pandemic Unemployment Assistance (PUA) to individuals who are self-employed, seeking part-time employment, or who otherwise would not qualify for regular unemployment compensation. To qualify for PUA benefits, you must not be eligible for regular unemployment benefits and be unemployed, partially unemployed, or unable or unavailable to work because of certain health or economic consequences of the COVID-19 pandemic. PUA is available for up to 39 weeks.

The Department of Labor (DOL) clarified that gig workers will still be eligible for benefits under the PUA even if they are not totally unemployed. If they experience "a significant diminution of work as a direct result of COVID-19" gig workers can collect benefits under the CARES Act.

Workers who qualify for PUA also will receive the additional \$600 per week, in full, under the Federal Pandemic Unemployment Compensation program (FPUC), until July 31, 2020.

Massachusetts rolled out a new [website](#) dedicated to PUA which is now live. Individuals who are eligible, may now apply through this portal.

Furloughs and Standby Status

As part of its Emergency Regulations relating to COVID-19 and unemployment insurance, Massachusetts implemented a new "standby status" designation, which relaxes typical work searching requirements under the traditional unemployment laws. This new status is available

when employers want to furlough employees for a period of time, with the intention of bringing those employees back once work is available.

The employee may disclose this standby status to the Massachusetts Department of Unemployment Assistance (DUA), and the DUA will not require that the employee show they are searching for work. The DUA gives a four-week presumption period in which the employee may designate this status without confirmation from the employer. After four weeks, however, the employer will need to verify the standby status with DUA, or the employee will then be subject to the typical work search requirements. The standby status is available for up to eight weeks, but the DUA may extend the status beyond that if need requires it.

The only other requirements are that the employee stay reasonably in contact with the employer and that the employee be ready to take on work when available.

Short-Term Compensation Programs (or WorkShare Programs)

The CARES Act encourages states to set up short term compensation programs, if they do not have such programs already, and provides certain incentives for implementation. Massachusetts has had a short-term compensation program since 1988, called the WorkShare program.

Short-term compensation programs (STC) are an alternative to layoffs. Instead of reduction in force, an employer may split the available work by reducing employees' hours, and thus compensation. Employees are then eligible to supplement their reduced pay with part of their unemployment insurance benefits through DUA, based upon the reduction in hours.

To qualify, the employer must develop a proposed WorkShare program and submit it to DUA for approval. A program must have 2 or more affected employees, and the employer must designate an "affected unit" to be part of the program. This could be the entire company, or a department, a shift, or even a job function. All employees in the unit will have the same reduction in hours. The reduction can be anywhere from 10-60%, and can last up to 52 weeks. The program can be discontinued at any time by the employer. An employer may have more than one WorkShare program for different units, but employees can only be part of one unit.

It is important to note that only employees who would otherwise be eligible for regular unemployment compensation can take part in the WorkShare program, and participation is voluntary. Additionally, if the employees are part of a union, the union must agree to the WorkShare program.

While STC programs are authorized by the federal government, like regular unemployment benefits, each state has their own rules and administration of such programs.

Employees who are receiving benefits under a WorkShare program also qualify to receive the additional \$600 per week, in full, under the Federal Pandemic Unemployment Compensation program (FPUC).

Other Important Provisions

As part of its Emergency Regulations, Massachusetts also waived the usual one-week waiting period for benefits. The Regulations also relax or excuse penalties for missed deadlines during the processing of a claim, such as responding to fact finding questionnaires and requesting an appeal, if the reason for failing to meet the deadline is due to COVID-19. The Regulations also permit DUA to grant employer requests for extensions for filing quarterly wage reports and paying contributions.

The Regulations also greatly reduce the work search requirements for individuals who are unemployed due to COVID-19. The Regulations require that an employee be "capable of, available, and actively seeking" work that is suitable for them. The Regulations specify that work is "not suitable" if it endangers the health of the employee or others in the employee's household.

If a claimant is quarantined, self-quarantined due to a reasonable fear of exposure, is caring for a family member who is sick, or is caring for a child who is at home, the individual is not required to accept work until able to do so.

Morse is focused on assisting our clients through these unprecedented and challenging times. Please feel free to reach out to your Morse contact, or to speak with **Amanda Thibodeau** directly, should you have any questions.

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