

Frequently Asked Questions – Resources for Persons who Have Lost Jobs or Income due to COVID-19

GENERAL QUESTIONS

I lost my job/income due to COVID-19, what relief is available to me?

I need to take leave from work due to the effects of COVID-19 on me personally or on my family. What relief is available to me?

How can I ensure I am providing my personal information to a legitimate government employee?

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STATE-LEVEL UNEMPLOYMENT BENEFITS: UNEMPLOYMENT INSURANCE ASSISTANCE

(1) *Eligibility and Application Process*

How do I know if I am eligible for state-level Unemployment Insurance?

To be eligible for state-level unemployment insurance ("UI") benefits:

- (1) the caller must have worked and been paid wages for work in at least two calendar quarters prior to the current quarter;
- (2) the caller must have been paid at least \$2,700 in wages in one of the calendar quarters; and,
- (3) the total wages the caller received in the last four quarters (i.e., one-year of work) before applying for UI benefits must be 1.5 times the caller's high quarter (i.e., the quarter in which the caller was paid the most money) wages.

If the caller is ineligible for state-level UI benefits, the next step is going over the eligibility requirements for federal-level UI benefits. These benefits are granted under the federal Coronavirus Aid, Relief, and Economic Security ("CARES") Act. Notably, the CARES Act expanded the scope of state-level UI benefits to include certain workers traditionally ineligible for state-level unemployment benefits (e.g., self-employed workers, freelancers and independent contractors).

Where do I apply for UI? *

If possible, the caller should apply online (instructions below) Monday through Sunday from 7:30 a.m. to 7:30 p.m.

The Department of Labor's Telephone Claim Center is currently overwhelmed with calls. Online applicants seem to have greater success and receive their payments much faster based on the feedback left on the Department of Labor's various social media platforms. Importantly, applicants who try to apply for benefits by phone cannot remain on hold until a representative is available; instead, if the phone line is busy, they need to call repeatedly until they get through to a representative.

If the caller does not have the ability to apply online, then the caller can reach out to the Department of Labor at 1-888-209-8124. Applicants can file their claim over the phone from:

- Monday-Friday, 8:00 a.m. to 7:30 p.m.; and
- Saturday-Sunday, 7:30 a.m. to 8:00 p.m.

Upon submitting their completed online application, some applicants have been instructed to call the claim line to complete their application (addressed in more detail below). The Department of Labor provided guidance indicating that the DOL will call back applicants, who called, couldn't reach the DOL and need to complete their application over the phone. This guidance applies to applicants who completed their application and have not yet been able to reach the Department of Labor.

How do I apply to receive UI? *

To apply online, the caller should go to www.labor.ny.gov/signin and use their [NY.gov](#) ID credentials to access and complete the application.

The caller can view a step-by-step application at: <https://www.labor.ny.gov/ui/pdfs/Unemployment-Filing-Instructions.pdf>

If the caller does not have [NY.gov](#) ID credentials, they should click on the option to "Create an Account" and complete the prompts. The prompts include:

- (1) Confirm e-mail address;
- (2) E-mail validation;
- (3) Account information;
- (4) Personal information; and
- (5) Confirmation.

To apply over the phone, the caller may call 1-888-209-8124. Due to high volume, applicants should follow the below schedule:

- Last names beginning with A-F should call on Monday;
- Last names beginning with G-N should call on Tuesday;
- Last names beginning with O-Z should call on Wednesday.

Applicants who missed their designated weekday can call on Thursday, Friday, Saturday or Sunday.

I'm having difficulties accessing my [NY.GOV](#) ID account. Can you help me? *

The only way the caller can access the online UI benefits system is with their [NY.GOV](#) ID Username and Password. The Department of Labor has helpful guides for six different scenarios on its [website](#):

- (1) Caller needs to reset their password and/or unlock their account ;
- (2) Caller has a previous or current UI claim, and caller already created a [NY.GOV](#) ID, but not with the Department of Labor ;
- (3) Caller does not have a [NY.GOV](#) ID, and they have no previous or current UI claim ;
- (4) Caller has created a [NY.GOV](#) account at another NYS agency, such as DMV, and they have no previous or current UI claim ;
- (5) Caller has created a [NY.GOV](#) ID, but not with the Department of Labor, and received a message stating that their e-mail address is already in use;and
- (6) Caller has a completed initial UI claim on file with UI Benefits, and they do not have a [NY.GOV](#) ID.

For additional help, the caller should reach out to 1-800-833-3000 Monday through Friday 8:30 a.m. to 4:30 p.m. ET to speak with a representative.

I need to reset my PIN. What should I do? *

The caller must use their Personal Identification Number (PIN) to discuss their completed application over the phone. The caller should have received their PIN upon filing for UI benefits either through the Telephone Claims Center or online.

If the caller needs to reset their PIN, they should dial 1-888-209-8124 and speak with an agent. This is the only way to reset the PIN.

What documents/information do I need to apply to receive state-level UI? To apply for NYS UI, the caller will need to provide the following

- Social Security number;¹
- Driver license or Motor Vehicle ID card number;
- Complete mailing address and zip code; phone number at which the caller can be reached between 8 am - 5 pm, Monday –Friday;
- Names and addresses of all employers for the last 18 months, including those in other states; Employer Registration number or Federal Employer Identification Number (FEIN) of the caller's most recent employer (FEIN is on W-2 forms);
- For non-U.S. citizens: Alien Registration card number;
- For federal employees: Copies of forms SF8 and SF50; and
- For military service: most recent separation form (DD 214).

¹ The caller should only provide this Social Security information directly to an official NYS government representative, and should never disclose this information in response to any solicitations from third parties.

I filled out the UI benefits application online, but I was instructed to call the Department of Labor to complete the application. I haven't been able to get a hold of the Department of Labor ever since. What do I do? *

The caller should wait for a call from the Department of Labor. Due to the overwhelming volume of incoming calls, the Department of Labor adopted a new approach. Instead of asking the applicants to contact the Telephone Claim Center, the Department of Labor is now calling applicants to help them complete their online applications.

The caller should also make sure to unblock calls from private/blocked numbers. We understand that there are Department of Labor employees placing calls from private/blocked numbers, so the caller should ensure her phone can receive calls from all callers.

I missed a call from the Department of Labor. I tried returning their call, but I can't get a hold of them. What do I do?

The caller should wait. The Department of Labor will try the caller again to get in touch.

I filled out the UI benefits application online and I was instructed that I would receive a call to complete my application. It has been days/weeks and I haven't received a call. Is there a problem with my application? *

No. The Department of Labor aims to place calls within 72 hours of such notice, but there are serious delays due to the volume of applicants. Based upon information on DOL's social media platforms, there are applicants who had to wait weeks to receive callbacks. The delay does not mean that there is something wrong with the caller's application. The caller should continue to certify for benefits every week to ensure that their claim will be backdated to the date the caller became unemployed. The caller will receive retroactive benefits they are eligible for.

The caller should also make sure to unblock calls from private/blocked numbers. We understand that there are Department of Labor employees placing calls from private/blocked numbers, so the caller should ensure her phone can receive calls from all callers.

I found a company and/or website saying that they can help me file for benefits. Should I ask for their help?

No. There is no need to share confidential information with a third party to obtain UI benefits. There is no need to pay a fee to file for benefits.

At best, these website are offering a service that the caller does not need to pay for. At worst, they may be "phishing" schemes, ways to collect personal information that could put the caller at risk for identity theft. If the caller believes their identity has been compromised, they should contact local law enforcement and take steps to protect their identity and that of their employees.

How can I ensure I am providing my personal information to a legitimate government employee?

Unfortunately, scammers may pretend to be government employees in attempts to obtain an individual's personal information or make fraudulent demands for payment from them.

Government employees will never:

- Demand an immediate payment from a claimant;
- Require payment by cash, gift card, pre-paid debit card, or wire transfer; or
- Threaten a claimant with adverse action if they do not make immediate payments.

Any fraudulent activity should be reported to the Office of the NYS Attorney General Consumer Frauds Bureau at 800-771-7755.

I received an email from "Unemployment Advisory Department" telling me I should receive my Direct Deposit Card soon. What does that mean?

The caller should be wary of phishing emails. The caller should ignore the email and should not click on any links included in the email. The caller will not receive an email or secure message from the Department of Labor or KeyBank indicating that their debit card is on the way. If the caller chose to receive their UI benefits by debit card, they will receive their card in a plain white envelope.

For additional information on UI-related scams, please visit: <https://labor.ny.gov/announce/email-scam.shtm>

I don't have all of the required documents. Can I still file a claim?

Yes. The caller can file a claim without all of these documents. However, missing information can delay the first payment.

I have a disability and need help with filing my claim. Can I ask for help with filing my claim? *

The caller can ask a friend or relative to help with phone claims if they:

- Have problems with hearing or speech, or
 - Have difficulty using the phone for any reason.
- If an applicant asks a friend or relative for help:
- The applicant must be present each time the helper uses their PIN.
 - The applicant will be held accountable for the actions of their helper.

- The applicant may be subject to penalties, including forfeiture of benefits, if the applicant is not present when their helper assists them.

Helpers can find more information about the process at: <https://www.labor.ny.gov/formsdocs/factsheets/pdfs/P8o8.pdf>

My friend/relative has lost their job/is furloughed. How can I help them? *

The information being provided is generally applicable to anyone who meets the eligibility requirements for each program. However, unless the friend/relative has a qualified disability, the caller cannot call on behalf of the friend/relative and the actual recipient needs to complete the application.

What number should I call to file my claim if I have a hearing disability? * When should I file my UI claim? *

The caller should file their claim after they've become totally unemployed. This means the caller should file in the first week the caller worked less than four days and earned a gross income of less than \$504. If the caller worked four or more days or earned more than \$504, the caller should file the following week. If a caller lost one job and is still partially employed, they must check the DOL's website to see if they are entitled to partial benefits.

What is the "waiting week" and what does it mean that it was waived?

Typically, the first full week of a claim is an unpaid waiting week. This means the caller is not paid but must still claim weekly benefits and fulfill eligibility requirements. Beginning March 12, 2020, Governor Cuomo has suspended the one-week waiting period for individuals impacted by the COVID-19 public health crisis. This means that if the caller is found eligible for benefits, they will be credited from the first week of their claim (not the second week). It does not mean that they will be paid as soon as they file their claim.

I'm concerned that if I apply for UI my employer might retaliate against me or not call me back to work after the pandemic ends. What are my rights? *

State law provides all workers with the right to file for unemployment and the labor law provides that an employer cannot retaliate against a worker's engagement in a protected activity.

Retaliation is prohibited for exercising the right to receive paid or unpaid sick or family leave, UI, workers' compensation, complaining about national origin or race discrimination, or requesting an accommodation for a disability. If the caller has been retaliated against for exercising any of the rights above, they should contact the Attorney General's Office. They may also email labor.bureau@ag.ny.gov or call (212) 416-8700.

Once I'm approved, do I need to do anything to continue receiving payments? *

Yes. The caller needs to certify for benefits weekly, usually on Sunday, to continue to receive UI benefits. These weekly certifications are how claimants tell the Department of Labor they are still unemployed, ready and able to work, looking for a job, and in need of state-level UI benefits. Claimants can do this each week either online at <http://www.labor.ny.gov> or by calling the Department of Labor's Tel-Service toll-free phone line at (888) 581-5812.

When claiming weekly benefits, claimants will be asked a series of questions. It is important to answer truthfully, as they are certifying to the Department of Labor that their answers are true and correct. The question that appears to give claimants the most trouble is whether or not they've "worked" that week. A claimant who works in any capacity – not at the job they've lost, but at another job, or even temporary work, should report this work to the DOL when certifying.

If claimants have exhausted all 26 weeks of traditional unemployment insurance benefits and all 24 weeks of Pandemic Emergency Unemployment Compensation (PEUC) benefits (a total of **53** weeks of benefits) and continue to be unemployed, they may be eligible for Extended Benefits Program.

The Extended Benefits Program (EB) went into effect the week ending July 5, 2020. It currently provides up to 20 weeks of additional benefits. (The number of available weeks of EB depends upon New York's unemployment rate. Therefore, it is subject to change.)

What if I live in New York State, but work in another state? *

If the caller currently lives in New York State, but all of their work in the past 18 months was in another state, they must file their claim with the state where they worked.

If the caller worked in two or more states in the past 18 months, they must file their claim with one of the states where they worked, no matter where they live (and no matter the allocation of work between the states). They have the option to combine wages from all the states where they worked in the past 18 months or they may use only the wages earned in the filing state. The caller should file their claim in a state where they worked, and then that state will tell the caller all of their filing options to receive the highest benefit amount.

Multi-state claimants should reach out to the DOL when they are approaching their 26th week of collection to ensure they should continue collecting from that state and do not have to refile in another state.

Does receiving Social Security affect my benefits?

The Department of Labor does not reduce unemployment benefits for collecting Social Security. However, the applicant must be able to work and be looking for work with no restrictions when they receive Social Security.

Does receiving a pension affect my benefits?

If the caller has retired and is not seeking employment, they are not eligible for UI benefits.

If the caller has retired but is actively seeking work, they may be eligible for unemployment benefits under the same conditions as other workers. The caller's weekly benefit may be impacted by the pension they receive from their base period employer:

- If the employer was the sole contributor to the caller's pension, 100% of the weekly pension amount will be deducted from the weekly benefit rate of the caller;
- If both the employer and the caller contributed to the caller's pension, 50% of the weekly pension amount will be deducted from the weekly benefit rate of the caller.
- If the employer did not contribute to the pension (i.e., the caller was the sole contributor to the pension) then the caller's weekly benefit rate will not be reduced by the weekly pension amount.

The Department of Labor will make a determination of any reduction in the caller's weekly UI benefit rate. As with other determinations, the caller may request a hearing if they disagree with the reduction.

Does receiving workers' compensation affect my benefits?

If the caller receives workers' compensation, but they are available and physically able to work, they may be eligible for UI benefits. However, this may reduce their weekly unemployment benefit rate. The weekly total of their workers' compensation and state-level UI benefits cannot be more than their average weekly wage in the base period.

When filing a claim for benefits, the caller must send to the Department of Labor:

- A copy of their electronic file from Workers' Compensation; and
- A medical statement signed by their physician, stating that they are able to work.

I contracted COVID-19 at my workplace. Am I eligible for workers' compensation?

Employees that contract COVID-19 at their place of work may be entitled to workers' compensation insurance during any treatment or recovery. Employees receive two-thirds of their average weekly rate in weekly benefits with a maximum payment of \$934.11 per week. Employees should apply for benefits with the Workers' Compensation Board. To file a Workers' Compensation claim the caller should visit the Workers' Compensation Board or call (877) 632-4996 for questions or assistance.

Am I allowed to be on Medicaid if I receive unemployment benefits?

Yes.

The state-level UI and the PUA count toward applicants' income for Medicaid eligibility purposes. In contrast, the PUC benefits discussed below (i.e., the additional \$600/month benefits provided by the CARES Act) does not count toward applicants' income for Medicaid eligibility.

If I receive dismissal or severance pay, will it affect my benefits?

The caller may be eligible for state-level UI benefits if the weekly payments of dismissal or severance are less than the maximum benefit rate.

The caller will not be eligible for state-level UI benefits if:

- They receive weekly dismissal or severance payments that are greater than the maximum weekly benefit rate; or

Their employer gave them a lump sum payment and the weekly pro-rated amount of the payment is greater than the maximum weekly benefit rate.

They may be eligible to collect benefits if:

- The weekly amount of dismissal or severance pay is less than or equal to the maximum weekly benefit rate; or
- They receive their first dismissal or severance payment more than 30 days after the last day they worked.

If the caller is still unemployed when their dismissal or severance pay ends, they should file a claim for benefits. They should do this even if they are not sure if they have enough earnings, or if they filed a claim when they started receiving dismissal or severance pay. The Department of Labor will determine if they are eligible for benefits.

If I am not a US citizen, may I still file a claim? *

If the caller is not a U.S. citizen, they may receive UI if they:

- Lawfully employed when they lost their job;
- Are legally allowed to take a new job; and

- Meet the other requirements for state-level UI benefits.

Undocumented immigrants or immigrants working without legal permission cannot get state-level or federal-level UI benefits. Permanent residents qualify for state and federal-level UI benefits according to the same rules as citizens.

What if I want to work for a friend or relative while receiving UI benefits? *

The Department of Labor may consider the caller employed on any day or any part of a day when they perform even minor duties or “favors” for a friend’s or relative’s business. It does not matter whether they get paid or not. Claimants should report any work performed when they certify weekly.

What are some of the reasons I could be denied state-level UI benefits?

The caller will be denied state-level UI benefits if they do not fulfill eligibility requirements detailed above. In addition, see below for other common reasons for a denial:

- Voluntary Quit or Misconduct. The caller will be disqualified from receiving state-level UI if:
 - They quit a job without good cause; or
 - They lost a job because of misconduct; and
 - They have not subsequently worked and earned at least ten times their weekly benefit rate.
- A disqualification for the above reasons lasts until the caller works and earns at least ten times your weekly benefit rate. Self-employment does not count. They must be out of work again through no fault of their own. In addition, any employment which they lost due to misconduct cannot be used to establish a claim or in the calculation of their benefit rate.
- Criminal Misconduct. If a caller is discharged for committing a felony in connection with employment and admits guilt in writing or they are convicted of the crime, they will be disqualified from receiving benefits for 12 months after discharge from employment. Also, wages paid for such employment cannot be used to establish a claim for state-level UI benefits.
- Job Refusal. The caller will be disqualified from receiving benefits if, after applying for UI benefits, they refuse (without good cause) to take a job for which they are fitted by training and experience and which pays the prevailing wage for that kind of work in the locality. They may also be disqualified, if, after receiving 10 full weeks of benefits, they refuse without good cause to take a job that they are physically and mentally capable of doing and that pays the prevailing wage for such work and pays at least 80% of their base period high quarter wages.
- Strike and Other Industrial Controversy. If the caller loses their job because of a strike or other industrial controversy except for lockouts in the establishment where they are employed, their rights to state-level UI benefits will be suspended for 14 days beginning with the day after they lost their job or until the labor dispute is ended if it does not last 14 days. This applies whether or not they are directly involved in the labor dispute.
- Availability and Capability. If the caller is not ready, willing and able to work, is not prepared to take a job immediately, or is not physically or mentally capable of employment, they will not be paid benefits until they are again available for employment and are capable of working and are making diligent efforts to find a job.
- Not Totally Unemployed. If the caller works while receiving benefits and does not report that employment, even if it is part-time work, they may be committing fraud. They may be suspended from receiving benefits for any day they worked and did not report that work. They may be required to pay back the money they received and a penalty may be assessed for falsely stating they did not work.

I’m currently receiving state-level UI benefits. My employer asked me to return to work, but I’m unable to do so due to a COVID-19 related reason (e.g., child care obligations, immunocompromised). Am I able to continue to receive state-level UI benefits if I refuse my employer’s job offer?

The weekly certification components in the current UI application asks the claimant whether the claimant refused any job offer or job referral for any reason other than the following reasons:

- personal or family illness due to COVID-19;
- lack of childcare during the closure of a school or facility due to COVID-19; and
- quarantine restrictions issued by authorities or a medical provider.

Accordingly, if the caller refuses the employer’s offer due to any of the above circumstances, the caller will remain eligible to receive state-level UI benefits.

What if I am denied UI benefits? *

If the caller is denied benefits, a Notice of Determination will be mailed to them telling them the reasons why. This notice will also explain for what period of time benefits are being denied, how to re-qualify and how to ask for a hearing.

I want to contest the Department of Labor’s determination. Can I request a hearing? What does a hearing entail? *

Yes. A hearing is a formal proceeding held before an administrative law judge. Based on the evidence presented at the hearing, the judge will decide whether the caller is entitled to or eligible for UI benefits. At the hearing, the caller, their employer and any witnesses for either side may testify. The testimony will be recorded. Either side can also present papers or other physical evidence.

The Department of Labor suspended all in-person proceedings due to COVID-19 for the time being, so all hearings take place over the phone. It is unclear if and when hearings will return in person.

The application asks me whether I am able to work. How am I supposed to answer if I'm able to work but my workplace is closed due to COVID-19 or I now have to take care of my children due to COVID-19 closures? *

If the caller is able to work but his or her workplace is closed due to COVID-19, then the caller is supposed to answer "YES" in order to receive their benefits.

If a caller has incorrectly logged in "NO" as his or her response, the caller can try to get assistance from the Department of Labor through filling out the "Technical Help Form."

If the caller has to take care of his or her children due to COVID-19, under state rules, the caller is not able and available to work. The caller should instead apply for expanded federal-level UI benefits under the CARES Act.

My employer gave me the option to telework, but my workday is interrupted due to childcare obligations. Can I apply for UI benefits?

Applicants who are able to telework are not eligible for state or federal unemployment benefits. Based on existing guidance, the caller will be eligible for federal-level benefits only if the caller used to send their child to day care which is now closed due to COVID-19.

My employer gave me the option to telework, but due to domestic violence, sexual violence, or stalking I can't. Am I eligible for UI benefits?

Based on the guidance issued by the Department of Labor on April 27, 2020, the applicants subject to these circumstances should apply and may be granted benefits.

If I have a preexisting mental illness or disorder that has been exacerbated by the COVID-19 pandemic, am I entitled to a reasonable accommodation (absent undue hardship)?

Although many people feel significant stress due to COVID-19, employees with certain preexisting mental health conditions, for example, anxiety disorder, obsessive-compulsive disorder, or post-traumatic stress disorder, may have more difficulty handling the disruption to daily life that has accompanied the COVID-19 pandemic.

As with any accommodation request, the caller's employer may: ask questions to determine whether the condition is a disability; discuss with the caller how the requested accommodation would assist the caller and enable the caller to keep working; explore alternative accommodations that may effectively meet the caller's needs; and request medical documentation if needed.

② *Payment Options, Payment Timeline, Payment Delays and Taxation*

I keep getting bumped from the Department of Labor's Telephone Claims Center. Will my claim be processed?

Yes. The caller will receive all benefits to which they are entitled. The caller's claim will start on the day they were separated from their employer, and the Department of Labor will backdate any claims that are not timely processed due to any issues with the Department of Labor website or UI call center.

I was unable to file my claim during the week I was separated from my employer because of issues with the Department of Labor website and/or Telephone Claim Center. Will I still receive that week's benefits? *

Yes. The caller will receive all benefits to which they are entitled. The caller's claim will start on the day they were separated from their employer, and the Department of Labor will backdate any claims that are not timely processed due to any issues with the Department of Labor website or Telephone Claim Center.

What are my options for receiving benefits? *

The caller can receive benefits direct deposited into their personal checking account. They can register for direct deposit via their online account at www.labor.ny.gov/signin. To register, they need to provide their bank routing and checking account numbers.

The caller can also receive a debit card for their UI benefits. UI benefits debit card works like other debit cards. There is no activation fee and the caller can use the card, free of charge, at over 46,000 KeyBank, First Niagara Bank and Allpoint ATMs in the United States. KeyBank will charge \$1.50 for each withdrawal outside the network, plus any fee charged by the out-of-network ATM owner. The debit card also allows them to spend their benefits directly at point-of-sale locations and through online, phone and mail order purchases.

If I am found eligible for UI, when can I expect first payment? *

If the caller is found eligible for UI, their first payment will generally be made in two to three weeks from the time of filing. In some cases, additional information must be obtained before payment can be made and their first payment may take longer. In these circumstances, an applicant will not receive benefits during this period.

The caller must continue to claim weekly benefits as long as they are unemployed and meet the eligibility requirements. Also, they should check their mail and respond to any questionnaires or phone calls from the Department of Labor right away to prevent delays in their payments. If found eligible, they will receive any back weeks of benefits owed with their first payment. They will receive their benefits via direct deposit or bank debit card.

The caller should sign up for text alerts to get notified as soon as their benefits are deposited onto their KEY2BENEFITS card. They can sign up for text alerts at: www.Key2Benefits.com.

What if I think my UI benefit payment is late? *

The caller should first access their online account with the Department of Labor to determine if their payment is released. If their payment is released, they should check their debit card account at WWW.KEY2BENEFITS.COM/NYSOL or call KeyBank Customer Service at 1-866-295-2955.

It usually takes up to three weeks to receive the first benefit payment. If the caller continues to have delayed payments, they should call 1-888-209-8124 to speak with an agent.

Are my benefits taxable? *

Yes. If the caller is otherwise required to file a tax return, their unemployment compensation is subject to federal, state, and local taxes.

Will the Department of Labor withhold any benefits for taxes? *

It is the caller's choice to withhold benefits for federal income tax or state income tax. They can choose to have 10% withheld from their weekly benefit payments for federal income tax. They can also choose to have 2.5% withheld for state income tax. The government withholds this money only after making mandatory deductions, such as child support payments. A claimant can change their withholding options at any time:

- Log in with their NY.GOV ID
- Click Unemployment Benefits, then "Payment and Tax Withholding Options,"
- Click "Tax Withholding,"
- Follow the instructions.

What if I need to leave New York State while receiving state-level UI benefits?

If the caller leaves their normal labor market to travel to another area, for any period of time, they must call the Telephone Claims Center before they leave. The Department of Labor will tell them whether their benefit rights can be protected while they are away (usually, only to the extent such travel is within the United States or Canada and involves a search for work). They could lose their benefits if they fail to advise the Center before they leave. Also, when they travel to a foreign country (except Canada), they should not use the web or phone systems to claim benefits while they are in the foreign country. This is because the caller cannot certify that they are ready, willing and able to work while in foreign country (except Canada). If the Department of Labor learns that they received benefits while outside of the United States, it will issue an overpayment determination. That makes the caller liable to repay any benefits that they were not entitled to receive.

I live abroad and work remotely. Am I eligible for benefits?

If, at the time of the separation, the caller was living abroad and working remotely for a NY-based employer, the caller may be eligible and should apply for UI benefits despite living abroad. Since remote work has become more commonplace, the DOL may determine this person to be eligible for benefits, despite not being able to reach their "normal labor market" in NY.

③ *Benefit Rates and Duration*

What is the maximum benefit I can receive from state-level UI?

The caller's benefit rate will be based on the recent wages they received from their employer(s). The current maximum weekly benefit rate is \$504.

How much can I get from NYS if my application is approved? Can I estimate my weekly state-level UI benefit amount?

Eligible workers will receive a benefit rate calculated based on the recent wage they received from their employers (up to a maximum of \$504/week) for 26 weeks.

The caller can use the benefit rate calculator on the Department of Labor website to get an estimate of weekly benefits:

<https://labor.ny.gov/benefit-rate-calculator/>

The tool gives an estimate only. It does not guarantee that the caller will be eligible for benefits or a specific amount of benefits. The caller must file a state-level UI claim to find out if they are eligible and learn their actual benefit amount.

How long does state-level UI last?

State-level UI benefits last 26 weeks per year. The federal CARES Act recently created a new program called Pandemic Emergency Unemployment Compensation that will allow claimants who exhaust their regular state-level UI benefits to receive up to 13 additional weeks of benefits.

④ Part-time Employment, Reduced Hours, "Furloughs" and Temporary Closures

My employer has reduced my hours because of COVID-19. Am I eligible for state-level UI?

It depends. If the caller works 30 hours or fewer and earn \$504/week or less, they may be eligible to receive full or partial UI benefits.

I work part-time. Am I eligible for state-level UI?

As of January 18, 2021, New York State has implemented a new rule that redefines how part-time work impacts unemployment benefits. NYS DOL's new partial unemployment system uses an "hours-based" approach.

Under the new rules, the benefits will not be reduced for each day. Instead, benefits will be reduced in increments based on the total hours of work for the week.

If the caller works 30 hours or fewer and earns less than \$504 per week, excluding earnings from self-employment, they may receive full or partial benefits.

If the callers worked more than 10 hours in one day, they should only report the first 10 hours from that day in their weekly total. If they earn over \$504 in any week, no matter how many days they worked, they cannot receive benefits for that week.

Guidelines for Reporting Part-time Work*		
Hours You Worked Per Week	Number of Days You Should Report to UI	Percent (%) Reduction in Your Benefits
0 - 4	0 Days	0
5 - 10	1 Day	25%
11 - 20	2 Days	50%
21 - 30	3 Days	75%
31 - No Limit	4 Days	100%

For additional information on Partial Unemployment, please visit: <https://dol.ny.gov/unemployment/partial-unemployment-eligibility#:~:text=NYS%20DOL's%20new%20partial%20unemployment,excluding%20EARNINGS%20FROM%20SELF%20EMPLOYMENT>.

My employer has temporarily closed. Am I eligible for state-level UI?

Yes. The caller should file a claim if they are laid off from their job, so long as they've lost their position through no fault of their own.

I have been furloughed. Should I file for state-level UI?

Yes. The caller should file a claim if they are furloughed.

⑥ Small Business Owners, Self-Employed Workers

I am self-employed or an independent contractor. Am I eligible for state-level UI?

Most self-employed workers and independent contractors are ineligible for state-level UI and should apply for expanded federal-level UI benefits under the CARES Act, through the same application process provided by the New York State website. (As of April 20, 2020, applicants will no longer need to apply for state-level UI benefits and receive a rejection in order to apply for federal-level UI benefits.)

I'm a small business owner who has had to shut down due to COVID-19. Am I eligible for state-level UI?

Most small business owners will be ineligible for state-level UI and should apply for expanded federal-level UI benefits under the CARES Act.

6 COVID-19 related Voluntary Separation

I cannot work because my child's school or daycare facility has closed due to COVID-19, and I need to stay home to take care of my child. Am I eligible for state-level UI?

No, because under state rules, the caller is not able and available to work. The caller should instead apply for expanded federal-level UI benefits under the CARES Act. Please note if the caller is unable to work or accept new work, they may also be denied federal benefits or later determined ineligible because they are not "ready, willing and able" to work.

Please also note that the 2020-2021 school year is almost over, we anticipate schools will essentially "return to normal" for the 2021-2022 school year. It was recently announced the DOE will not participate in remote learning in the 2021-2022 school year.

However, they may be eligible for job protection and paid leave for individuals who are subject to an order of quarantine or isolation by a governmental entity due to COVID-19. The next step is walking the caller through eligibility requirements for paid sick leave.

If I am employed but unable to go to work because a medical professional told me I need to quarantine, am I eligible for state-level benefits?

Since the caller is still employed, they will likely be ineligible to receive state-level UI. However, they may be eligible for job protection and paid leave for individuals who are subject to an order of quarantine or isolation by a governmental entity due to COVID-19. The next step is walking the caller through eligibility requirements for paid sick leave.

I am an older worker and/or am immuno-compromised. I work near a lot of people and am personally uncomfortable going to work due to concerns about my health. Am I eligible for state-level UI?

Callers who voluntarily leave their job are usually not eligible for state-level UI. The caller should be instructed to first request an accommodation from employer because general fear of COVID-19 is not a good cause to voluntary quit. Accordingly, the caller should be instructed to consider speaking with their employer to confirm that the employee's services are "essential" under the PAUSE Act and associated guidance and, if so, to consider alternatives that may be available such as sick time or annual leave, teleworking, leave of absence or disability benefits. If these alternatives are not available, the caller should then apply for state-level UI.

I left my job because my employer forced me to take a pay cut. Can I apply for unemployment benefits?

It depends. Generally, the caller is not eligible for unemployment if he or she has left their job voluntarily without good cause. If an employer reduces pay, the caller may be eligible for partial unemployment. A reduction of 25% in hours, would have, alone, given the caller good cause to voluntary quit pursuant to longstanding unemployment insurance precedent.

7 Alternatives to Unemployment: Shared Work Program

Other UI Options? Can I suggest any alternatives to them?

Yes, the New York Department of Labor has a Shared Work Program (the "Program") that allows employees to work reduced schedules and collect partial UI benefits for up to 26 weeks.

Does my place of work qualify? What would my boss need to do?

To be eligible for the Program, the employer must:

- (1) Employ at least two full-time employees working in New York State; **and,**
- (2) For four consecutive calendar quarters (i.e., one year), either
 - (a) have paid UI contributions; or
 - (b) elected to reimburse benefits paid to the employer's former employees.

To participate, eligible employers must prepare a Shared Work Application with regards to eligible employees and submit it to the Department of Labor for review and approval at least one week, but not more than four weeks, before the proposed effective date.

8 Forfeit Days and Penalties

What if I receive an overpayment determination?

If it has been determined that you have been overpaid benefits, you will receive a written Notice of Determination explaining the reason for the overpayment and how to request a hearing if you disagree.

If you think you were paid benefits in error, it is important to contact the Telephone Claims Center promptly rather than wait for them to accuse you of overpayment. If you are entitled to further benefits, you may be able to use those benefits to repay the overpayment. Check with the Telephone Claims Center for instructions. Failure to repay an overpayment may result in additional charges for interest.

In addition, arrangements have been made with other state agencies that enable the Department to intercept payments due to repay amounts owed to the Department, such as the NYS Department of Taxation.

A forfeit day penalty may be imposed. This penalty precludes claimants from collecting for a certain duration, depending on the level of misrepresentation or fraud. More information below.

What is willful misrepresentation?

A penalty is imposed when it has been determined that you knowingly made false statements to obtain benefits or that you purposely withheld pertinent information to obtain benefits (i.e., “willfully misrepresented” your position). It results in a reduction of your rights to future benefits for a stated time period. Any future payments for which you may be eligible will be used to liquidate a forfeit penalty by withholding and offsetting benefits.

What is a forfeit day penalty?

A forfeit day (or days) are days in the future for which you cannot receive state-level UI benefits. Forfeit days are assessed if you willfully made a false statement or representation to get benefits.

A forfeit day penalty can be for as little as 4 days, or it can be up to 80 days. For every forfeit day that is assessed, the caller will lose 25% of your benefits for that week. If they have four forfeit days, they would receive no benefits for that week. This is because there is a maximum of four effective days of benefits in a week. If they have more than four forfeit days, the additional forfeit days are carried over to the following week.

For example, if they have five forfeit days, they would receive no benefits the first week, and they would have a 25% reduction in their benefits the following week.

How can a forfeit day penalty affect any future claims I may file?

If the caller’s forfeit day penalty has not expired, any payments they may be eligible for on future claims will first be used to pay their forfeit day penalty. This will reduce the amount of money they will receive in future UI benefit payments.

Do forfeit day penalties expire?

Yes. The expiration date of a forfeit day penalty is two years minus one day from the mail date of the Notice of Determination. If the caller appeals the determination, the expiration date of the penalty is two years minus one day from the mail date of the appeal decision.

Can I appeal the forfeit day penalty?

Yes. Instructions for appeal of determinations are included on the Notice of Determination to Claimants for Overpayment. More information about hearings is in the Unemployment Insurance Claimant Handbook, which is available online if the caller chooses not to have it mailed. The Department of Labor will not try to collect payments while the appeal is in progress. Any payment they made will be refunded if they are found eligible for the benefits.

Is the monetary penalty imposed instead of or in addition to a forfeit day penalty?

Any monetary penalty is imposed in addition to the forfeit day penalty.

How is the amount of the monetary penalty calculated?

The amount of the monetary penalty is calculated based on the amount of overpaid benefits. If the willful overpayment is \$666.67 or greater, the monetary penalty is 15% of the total overpayment. If the willful overpayment is \$666.66 or less, the monetary penalty is \$100.

FEDERAL-LEVEL UNEMPLOYMENT BENEFITS - PANDEMIC UNEMPLOYMENT ASSISTANCE**What is Pandemic Unemployment Assistance?**

Pandemic Unemployment Assistance (PUA) is a federal program that was included in the federal Coronavirus Aid, Relief and Economic Security (CARES) Act. Pandemic Unemployment Assistance (“PUA”) extends eligibility to individuals who have traditionally been ineligible for UI benefits (e.g., self-employed workers, independent contractors) until the benefit week ending 9/5/2021. Under federal law, PUA recipients may receive up to 79 weeks of benefits. The chart below shows the maximum weeks of benefits that may be available to you based on your Original Claim effective date.

Pandemic Unemployment Assistance Claimants	
Original Claim Effective Date*	Maximum Number of Weeks Available
January 20, 2020 - March 2, 2020	Up to 79 weeks of PUA

March 9, 2020 - September 5, 2021	Up to 79 weeks of PUA (Ends 9/5/2021)
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I'm already getting paid sick leave. Can I still get PUA?

No, CARES Act does not provide PUA for persons who are receiving paid sick leave or other paid benefits.

Who is eligible for PUA?

The caller will be eligible for PUA if they do not qualify for regular UI benefits (as NON-W-2 employees) and/or cannot work because they:

- Self-employed;
- Independent contractor;
- Work for an app-based company (i.e. "gig worker");
- Farmer;
- Diagnosed with COVID-19 or have COVID-19 symptoms and are seeking a diagnosis;
- Living with a household member who has been diagnosed with COVID-19;
- Providing care for a family or household member diagnosed with COVID-19;
- Primary caregiver for a child unable to attend school or another facility due to COVID-19;
- Unable to reach place of employment due to an imposed quarantine or were advised by a medical provider to self-quarantine due to COVID-19;
- Scheduled to commence new employment but cannot reach the workplace as a direct result of COVID-19;
- Became a major breadwinner because the head of the household died from COVID-19;
- Quit a job as a direct result of COVID-19;
- Place of employment closed as a direct result of COVID-19;
- Have insufficient work history and affected by COVID-19; and
- Otherwise not qualified for regular or extended UI benefits and affected by COVID-19.

Regardless of meeting a category listed above, the caller will **not** be eligible for PUA if they can telework or are receiving paid sick leave or other paid leave benefits (including state-level UI).

Once paid sick leave or other paid benefits lapse, the caller can apply for PUA.

Please note that there is an inherent double-edged sword to some of these eligibility requirements. For example, if claimants have COVID-19, they are technically not "ready, willing and able" to work. So, they may be approved for benefits, then hit with an overpayment later.

Helpers can find more information at: <https://dol.ny.gov/pandemic-unemployment-assistance>.

Some of the eligibility scenarios for PUA require a medical diagnosis. Does this mean that I must have (or my family must have) tested positive for COVID-19?

No. While a positive test is sufficient to qualify for PUA, a qualifying diagnosis does not require a positive test. Any diagnosis from a qualified medical professional, including one made via phone or telehealth, is also sufficient. The caller should retain a record of all documentation and communication pertaining to such diagnosis, if possible.

If the circumstances due to which I qualify for PUA have changed, do I need to fill in a new application to provide information on my changed circumstances?

No. The caller must provide the initial reason for his or her unemployment, partial unemployment, or inability or unavailability to work at the time of the initial PUA claim for the state to assess his or her eligibility. The caller must then certify on the continued claim each week that one of the enumerated reasons continues to apply. The individual continues to qualify, even if the precise provision under which he or she initially qualified changes to another precise provision under the CARES Act. This does not require a separate initial claim.

How do I apply for PUA?

The caller should go on www.labor.ny.gov/signin and use their [NY.gov](http://ny.gov) ID credentials to access the application. Upon signing in, they will be brought to a page titled My Online Services. From there, the caller should click on the button "Go To My Online Forms." At that point, there will be a tab on the left titled "Pandemic Unemployment Assistance Forms." The application can be reached there.

If the caller does not have [NY.gov](http://ny.gov) ID credentials, they should click on the option to "Create an Account" and complete the prompts. The prompts include:

- (1) Confirm e-mail address;
- (2) E-mail validation;
- (3) Account information;
- (4) Personal information; and

- (5) Confirmation.

I applied for state-level UI benefits, but haven't heard back. Should I re-apply for PUA benefits?

No. Failure to receive a response from the DOL in a timely manner does not qualify the claimant for PUA. The claimant should wait until they receive a determination about state-level UI before applying for PUA. Claimants should continue to certify weekly.

When should I apply for PUA?

The caller should apply for PUA as soon as they fit in the eligibility criteria listed above.

At the beginning of the pandemic, a caller could not apply for PUA until they had been determined ineligible for state-level UI. To receive PUA, the caller must first apply for state-level UI. Now, there is supposed to be one application for benefits and the DOL will determine if the claimant is eligible for state or federal level benefits. New Yorkers who are enrolled in the Pandemic Unemployment Assistance (PUA) program do not need to reapply for benefits if they continue to be unemployed when they reach the end of their initial benefit year. Instead, PUA claimants should continue to certify weekly while unemployed to continue receiving the benefits they are eligible for.

When will I start receiving PUA?

If claimants are eligible, their first payment will generally be made in two to three weeks from the time their claim is completed and processed. In some cases, DOL must get additional information before payment can be made and their first payment may take longer. For additional information, please visit: <https://dol.ny.gov/pandemic-unemployment-assistance>

What is the maximum & minimum benefit I can receive from PUA?

The caller's benefit rate is based on their recent earnings. Effective the first Monday of October 2019, the maximum benefit rate is \$504. The maximum rate is expected to increase each year until 2026, when it is expected to be set at 50% of the state's average weekly wage. For claims effective January 4, 2021 or later, the minimum benefit rate is \$108, as provided by U.S. Department of Labor.

How long do benefits from PUA last?

PUA benefits may cover periods of unemployment up to 79 weeks.

Are benefits from PUA retroactive?

Yes. PUA benefits can be paid retroactively for periods of unemployment, beginning on or after January 27, 2020. However, anyone who applies for benefits after 12/27/20 can only have their claim backdated to 12/1/20 due to the enactment of the Consolidated Appropriations Act.

I recently completed my application for PUA, but I would like my claim to be backdated. Do I need to show good cause?

No. An individual does not need to demonstrate good cause to backdate a PUA claim.

If I'm living in one state and self-employed in another state, where should I file for PUA benefits?

The caller should file with the state where the caller was working at the time of becoming unemployed. If a caller worked in more than one state at the time, then the caller should file in the state with the most recent work history. If a caller continuously works in multiple states, they should reach out to both DOLs in each respective state to create a combined wage claim. Claimants with multistate work history should also be aware that they may need to transfer their claim from one state to another after 26 weeks. As claimants approach their 26th week, they should reach out to the DOL to confirm they should continue to claim in that state.

Is there a minimum monetary requirement in the base period, similar to state-level UI benefits, that I need to meet in order to be able to apply for PUA?

No. There is no minimum monetary requirement for an individual to be eligible for PUA. However, base period wages are considered when calculating the caller's weekly benefits.

I can't find my tax return from 2019 to establish my income. Is there any other documentation I can use as evidence?

Acceptable documentation of wages earned or paid during CY 2019 (i.e., the PUA base period) includes, but is not limited to, state agency wage records, paycheck stubs, bank receipts, business records, ledgers, contracts, invoices, and billing statements. However, if possible, filing your 2019 taxes may help your benefit rate and the speed at which your application is evaluated. If you file before requesting benefits, it may be the best way to prove wages and receive the best benefit rate.

Am I required to search for work while collecting PUA benefits?

No. The New York State requirement for work search is on pause due to the COVID-19 pandemic. However, it is subject to change.

Please note that New York State regulations require the claimants to document their work search efforts and submit proof of them if the Department of Labor asks for it. According to the regulations, if they do not search for work, document their work search, and submit proof if asked, they could lose their benefits and have to pay back benefits they received.

Once my employer calls me back to work after the end of NYS ON PAUSE, do I have the right to refuse to go back to work and collect PUA?

No. Without having been advised by a health care provider to self-quarantine, an individual who does not go to work due to general concerns about exposure to COVID-19, and who does not meet any of the other COVID-related criteria for PUA, is not eligible for PUA.

Are PUA benefits included in my gross income for federal income tax purposes and subject to federal income tax withholding?

Yes.

How does the state assess whether I satisfy one of the COVID-19 related eligibility criteria for PUA benefits?

The state must ensure that the caller has completed a self-certification form that includes:

- ∞ The identification of the applicable COVID-19 related reason(s) under the CARES Act, and,
- ∞ A notice advising the caller that intentional misrepresentation on the self-certification is fraud.

Additionally, each state must provide the caller with a request for acknowledgement that he or she understands that the certification is under penalty of perjury.

I'm a full time student and I lost my part-time job. Am I eligible for PUA?

Yes. Provided the caller is a full-time student who worked part-time and is unemployed, partially unemployed, or unable or unavailable to work because of one of the COVID-19 related reasons under the CARES Act, then he or she may be eligible for PUA. There is no requirement that the lost employment must be the applicant's "principal source of income." However, students must still be "ready, willing and able" to work. Typically, high school students are precluded from collecting benefits due to the nature of the high school academic schedule in which they participate in classes from 7 a.m. – 2 p.m., approximately. College students may be eligible if their class schedule is more flexible and allows for the claimant to work more hours.

I was participating in Peace Corps/AmeriCorps but my site has been closed due to COVID-19. Am I am eligible for PUA?

Yes.

I have forfeit days remaining, and I qualified for PUA benefits. Can I use PUA weeks to satisfy the forfeit days?

Yes. The caller can use weeks of filing for PUA to satisfy forfeit days.

I am not eligible for UI because of a job separation that occurred prior to the COVID-19. Am I eligible for PUA?

No. PUA claimants must have lost their job in light of the COVID-19 pandemic in some way, shape or form. Claimants who lost their position prior to the pandemic (which, in NYS, is considered to have started in March 2020) are not generally eligible for PUA benefits. There are certain circumstances in which a claimant may be deemed eligible, but those are TBD by the DOL. For example, if a claimant committed misconduct and was fired in January 2020, they are not eligible for PUA because they are simply out of work.

I'm on approved unpaid medical leave from my employer and I'm not eligible for state-level UI since I'm not able to work due to medical reasons. Should I apply for PUA?

It depends. If the medical leave is based on a COVID-19 related reason, then the caller may be eligible. If the medical reason does not relate to COVID-19, then the caller will be ineligible for PUA.

I refused to return to work when called back by the employer because I wanted to receive unemployment benefits. Am I eligible for PUA?

No. The caller is not unemployed, partially unemployed, or not able or unavailable to work for one of the COVID-19 related reasons listed in the CARES Act. There may also be other reasons a caller may refuse to return to work and continue to be eligible for benefits including but not limited to, the offer of reemployment is at substantially less favorable conditions or below 90% of the prevailing wage for the position.

I'm paying child support. Are PUA payments subject to child support intercept?

Yes. Child support obligations must be deducted from PUA payments in the same manner and to the same extent as these obligations are deducted from state-level UI benefits.

I'm able to continue to work part-time, but my income has gone down significantly. Am I able to collect PUA despite working part-time?

Yes. Employees or independent contractors working part-time are eligible for partial PUA benefits. Claimants should report days and hours they've worked when they certify weekly.

What process will PUA appeals follow?

PUA determinations, appeals and hearings process will follow provisions of state law applicable to claims for payment of state-level UI benefits.

FEDERAL-LEVEL UNEMPLOYMENT BENEFITS - PANDEMIC UNEMPLOYMENT COMPENSATION

What is Pandemic Unemployment Compensation?

Pandemic Unemployment Compensation ("PUC") provides an additional \$600/week on top of all regular state-level UI and PUA benefits for the benefit weeks ending 4/5/2020 to 7/26/2020 and an additional \$300/week for the benefit weeks ending 1/3/2021 to 9/5/2021.

Will this additional \$300/week reduce my regular state-level UI benefits?

No. The PUC benefit will not reduce any state-level UI or PUA benefits. For instance, a caller eligible for the maximum amount under state-level UI benefits will receive $\$504 + \$600 = \$1,104$.

How long will I receive PUC benefits?

The PUC benefit will continue through September 5, 2021.

Will this additional \$300/week be counted towards my eligibility for other government programs?

The PUC benefit will not be counted toward income eligibility for Medicaid and the Children's Health Insurance Program.

I am already receiving state-level UI benefits. What do I have to do to receive this additional \$300/week benefit?

The caller should continue to certify if they are unemployed and already receiving state-level UI benefits. The PUC benefit will automatically be added to all regular state-level UI benefits.

I already applied for PUA benefits. What do I have to do to receive this additional \$300/ week benefit?

Nothing. PUC benefits will not reduce any UI, PUA, PEUC or EB benefits. The caller should continue to certify if they are unemployed and already receiving PUA benefits. The PUC benefit will automatically be added to PUA benefits.

FEDERAL-LEVEL UNEMPLOYMENT BENEFITS – PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION

What is Pandemic Emergency Unemployment Compensation?

Pandemic Emergency Unemployment Compensation ("PEUC") extends the eligibility for state-level UI and PUA for an additional 53 weeks, increasing the total duration of eligibility to 79 weeks.

Regular Unemployment Insurance Claimants	
Original Claim Effective Date*	Maximum Number of Benefit Weeks Available
July 2, 2018 - April 20, 2020	26 weeks of regular UI up to 53 weeks of PEUC (Ends 9/5/2021) Up to 20 weeks of EB** Total Number of Weeks: up to 99
April 27, 2020 - August 31, 2020	26 weeks of regular UI Up to 53 weeks of PEUC (Ends 9/5/2021) Up to 20 weeks of EB** Total Number of Weeks: up to 99

September 7, 2020 and later	26 weeks of regular UI Up to 20 weeks of EB** Total Number of Weeks: up to 46
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Helpers can find more information at: [HTTPS://DOL.NY.GOV/BENEFIT-EXTENSION-INFORMATION-0#:~:TEXT=REGULAR%20UNEMPLOYMENT%20INSURANCE,-THERE%20ARE%20TWO&TEXT=THE%20EXTENDED%20BENEFITS%20PROGRAM%20\(EB,IT%20IS%20SUBJECT%20TO%20CHANGE.\)](https://dol.ny.gov/benefit-extension-information-0#:~:text=REGULAR%20UNEMPLOYMENT%20INSURANCE,-THERE%20ARE%20TWO&text=THE%20EXTENDED%20BENEFITS%20PROGRAM%20(EB,IT%20IS%20SUBJECT%20TO%20CHANGE.))

I am already receiving state-level UI. How will PEUC assist me?

Once the caller exhausts 26 weeks of regular state-level UI, they will then receive an additional 53 weeks of PEUC benefits, increasing the total duration of state-level UI eligibility to 79 weeks.

Please note that once 26 weeks are exhausted, there may be a BRIEF, TEMPORARY pause in benefits as the extension is applied.

If callers have work history in multiple states, they may want to reach out to the NY DOL or other state DOL to ask if they should now apply in a different state after 26 weeks are exhausted. This has been an issue coming up recently for multistate workers.

I exhausted my 26 weeks of state-level UI benefits a few weeks ago. Am I still eligible for these 53 weeks of PEUC benefits?

Yes. Anyone who exhausted state-level UI benefits after July 1, 2019 is eligible to receive 53 additional weeks of benefits.

How do I apply for PEUC?

Applicants eligible for either state-level UI benefits or PUA will automatically be granted the 53-week extension. No separate/additional application is necessary.

LOST WAGE ASSISTANCE

What is the Lost Wage Assistance Program?

Lost Wage Assistance (“LWA”) was implemented by the federal government to help cover those who would struggle once the PUC program originally ended in July 2020.

How long will the Assistance last?

LWA was left up to the states to enact and is backdated to August 1, 2020. New York State has been approved for 6 weeks of Lost Wages Assistance (LWA). As of December 27, 2020, no new LWA applications will be accepted, per federal law.

CONSOLIDATED APPROPRIATIONS ACT

What is the Consolidated Appropriations Act?

On December 27, 2020, the Consolidated Appropriations Act, 2021 (“CAA”) was signed into law. It is an additional COVID relief bill and enhances and expands certain aspects of the CARES Act.

What are the changes and updates?

NO more retroactive benefits - anyone who applies after 12/27/20 can only have their claim backdated to 12/1/20. More ID required - claimants who apply after 12/27/20 probably need more documentation than those who applied before that date. New York has implemented the ID.me system.

What is the Mixed Earner Unemployment Compensation Program?

The CAA includes an optional new Mixed Earner Unemployment Compensation (MEUC) program to address a gap in the CARES Act, which had excluded mixed earners. Mixed earners are workers who receive some income on a W-2 basis and other income on a 1099 basis.

The MEUC program provides an additional federal benefit of \$100 per week in addition to their PUC benefit if claimants:

- collect regular unemployment insurance (UI), Pandemic Emergency Unemployment Compensation (PEUC), or extended benefits (EB); **and**
- earned \$5,000 or more a year in net earnings from self-employment.

The MEUC program began in New York around March 2021. Eligible claimants were notified of the program and how to apply. We are hearing that claimants are having issues with this program – claimants are told they did not submit adequate documentation, even if they have. Claimants who receive an adverse determination should request a hearing.

How long does the MEUC last?

The MEUC program is available to New Yorkers beginning with the week ending January 3, 2021, to the week ending September 5, 2021.

Can I apply for MEUC if I'm receiving PUA benefits?

If claimants receive PUA benefits, they are **not** eligible to apply for MEUC benefits.

AMERICAN RESCUE PLAN ACT**What is the American Rescue Plan Act Program?**

Under the American Rescue Plan Act ("ARPA"), federal unemployment benefits, including PUA, PEUC and \$300 FPUC have been extended for 25 additional weeks until the week ending September 5, 2021.

Am I getting any tax benefits?

If the claimants' modified adjusted gross income ("AGI") is less than \$150,000, the ARPA excludes from income up to \$10,200 of FEDERAL unemployment compensation paid in 2020, which means they don't have to pay federal tax on FEDERAL unemployment compensation of up to \$10,200. If claimants are married, each spouse receiving unemployment compensation doesn't have to pay federal tax on unemployment compensation of up to \$10,200. Any benefits collected after that initial \$10,200 are subject to tax. NYS has NOT passed a similar measure and claimants are still responsible for their taxes

Can I receive retroactive benefits after I have exhausted my PUA or UI benefits?

If claimants have already exhausted their PUA or UI benefits (including PEUC and EB), they can only receive benefits for weeks ending on or after March 21, 2021. No retroactive benefits will be paid.

OVERPAYMENT WAIVERS**What are the Overpayment Waivers?**

A waiver request is a request to be forgiven for an overpayment of benefits because of a financial hardship. Certain federal programs permit claimants who have received an overpayment of benefits to apply for a waiver from repayment if:

1. The claimant was not at fault for the overpayment; and
2. Recovery of the overpayment would be contrary to equity and good conscience – i.e., it would be financially burdensome for the claimant to have to repay these benefits.

How to Apply for a Waiver?

Claimants can request online or via snail mail.

Claimants may receive a DocuSign email with a waiver request application. If they do not receive the DocuSign waiver request application, they can request one by messaging DOL through their NY.gov online messaging account, or by mail to:

NYS Department of Labor

PO Box 15131

Albany NY 12212-5131

If submitting the request through their NY.gov online messaging account, they must select "Waiver" for the subject line, and include their Social Security number and current email address in the email message.

If submitting the request through mail, please include their Social Security number and current email address on the request.

What are the Factors that can Determine Whether or Not No Fault exists?

All of the following factors are considered:

- Whether or not the claimant made a statement or representation of a material nature that resulted in the overpayment and whether or not the claimant knew or should have known that the statement or representation was inaccurate;
- Whether or not the claimant failed or caused another to fail to disclose a material fact that resulted in the overpayment, and whether the claimant knew or should have known that the fact was material;
- Whether or not the claimant knew or could have been expected to know that the claimant was not entitled to the federal payment;
- Whether or not, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any other action or omission on your part or of which the claimant had knowledge, and which was erroneous or inaccurate or otherwise wrong; and
- Whether there has been a determination of fraud under the State law, Sections 2102, 2107 or 2104 of the CARES Act of 2020, Public Law (Pub. L.)116-136, or any amendments thereto, or under Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or any amendments thereto.

How to Determine Whether the Overpayment Would be Contrary to Equity and Good Conscience?

When determining if repayment of the overpayment would be “contrary to equity and good conscience”, the primary consideration specified by law is whether or not repayment of the overpayment will cause the claimant extraordinary financial hardship. In making financial hardship determinations, all potential income and all cash resources available to the claimant and his or her family, must be taken into account in the time period being considered. To request consideration that this repayment be waived, the claimant needs to complete a form. The form asks the following questions, seen below:

- (1) What is the claimant’s Marital Status?
- (2) Including the claimant, please state the total of all persons living in claimant’s household. Claimant also need to provide the name, age, and relationship of each person identified above.
- (3) Is the claimant currently employed?
 - If “YES”, claimant need to answer the employer’s name, address, telephone number and the claimant’s average Monthly wage.
 - If “NO”, when does the claimant expect to return to work?
- (4) If the claimant is married or in a domestic partnership, the claimant need to answer questions below:
 - Is the claimant’s spouse or domestic partner employed?
 - If “YES”, the claimant needs to answer the employer’s name, address, telephone number and the average Monthly wage of the claimant’s spouse.
- (5) Does the claimant receive any additional monthly financial support from relatives or friends, not including the spouse/domestic partner?
 - If “YES”, the claimant needs to specify from whom the claimant receive this support, his or her relationship with this person (s) and the average amount the claimant receives per month.
- (6) Does the claimant have cash resources excluding any retirement accounts (ex: stock/bonds/savings/checking accounts)?
 - If “YES”, claimant need to specify the source and amount.
- (7) Does the claimant have any other sources of income or aid?
 - If “YES”, claimant need to list the total monthly gross income from all sources (pensions, unemployment insurance, child support, alimony, social security, disability/Worker’s Compensation, Social Service Benefits, etc.)
- (8) Does the claimant own a home or other real property?
 - If “YES”, claimant need to specify the real property address, mortgage/loan holder(s) and monthly payment amount.
- (9) Does the claimant own a car or any other vehicle?
 - If “YES”, claimant need to specify the vehicle year, make& Model, legal owner, balance due and monthly payment amount.
- (10) Does the claimant have any debts (excluding credit cards) that he or she hasn’t yet disclosed in question #8 or #9?
 - If “YES”, claimant need to provide additional detail for each creditor such as creditor name, balance due and monthly payment amount.
- (11) The claimant need to list all other monthly expenses, including rent, insurance, utilities, transportation, medicine and food.

FEDERAL PAID LEAVE BENEFITS

@ Eligibility

Am I entitled to any paid sick leave if I have COVID-19 or have symptoms of COVID-19?

The caller may be eligible for leave under federal, state or local law. The next step is walking the caller through requirements for federal, state and local leave. Leave benefits granted under state law will prevail over those granted under federal law only if they are more expansive with regards to the specific scenario. Similarly, leave benefits granted under New York City law will prevail over those granted under federal or state law only if they are more expansive with regards to the specific scenario.

I am employed by a company with more than 500 employees. Can I still get federal leave?

No. The next step is walking the caller through the eligibility requirements for leave benefits under state and local law.

@ Payment Amounts

My employer is required to give federal paid sick leave and I’m diagnosed with COVID-19. What is the maximum benefit I can receive?

Employees who cannot work or telework due to being diagnosed with COVID-19 are eligible for two weeks of full paid sick leave (up to \$511/DAY or \$5,110 total).

My employer is required to give federal paid sick leave and I need to take care of my family. What is the maximum benefit I can receive?

Employees who cannot work or telework due to the need to care for other individuals including children are eligible to receive sick leave at 2/3 of the employee's pay rate (up to \$200/DAY or \$2,000 total).

I'm a full time employee. How many hours of federal paid medical leave am I entitled to?

Full-time employees are entitled to 80 hours of paid medical leave.

I'm a part-time employee. How many hours of federal paid medical leave am I entitled to?

If the caller works part-time, they are entitled to leave based on the following:

- (1) The caller's average number of work hours in a two-week period.
- (2) If this is unknown, or if the caller's schedule varies, the caller should use a six-month average to calculate the average daily hours.
- (3) If this calculation cannot be made because the caller has not been employed for at least six months, the caller should use the number of hours he or she and their employer agreed upon.
- (4) If there is no such agreement, the caller should calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of his or her employment

Can my employer refuse to give me my job back after I take leave under federal law?

No, employers must provide the same (or a nearly equivalent) job to an employee who returns to work following leave. However, employees are not protected from employment actions, such as layoffs, that would have affected them regardless of whether they took leave. This means their employer can lay them off for legitimate business reasons, such as the closure of their worksite.

NEW YORK STATE PAID LEAVE BENEFITS

I don't qualify for federal paid leave. Am I out of options?

No. The caller may be eligible for paid leave under New York State law starting on March 18, 2020.

I have COVID-19 or I'm experiencing COVID-19 related symptoms. Am I eligible for leave benefits under state law?

Yes. The caller may be eligible. The next step is determining the number of employees at the caller's workplace.

I am subject to a mandatory or precautionary order of quarantine or isolation for COVID-19. Am I eligible for leave benefits under state law?

Yes. The caller may be eligible. The next step is determining the number of employees at the caller's workplace.

My employer employs ten or fewer employees. Am I eligible for leave under state law? If so, what am I entitled to?

If the caller's employer employs:

- (1) Ten or fewer employees as of January 1, 2020; and
- (2) Made \$1 million or less of net income in the previous tax year; then the employee will be eligible for unpaid leave until the termination of any mandatory or precautionary order of quarantine and isolation and will also be eligible for paid family leave benefits and benefits due to disability.

If the caller's employer employs:

- (1) Ten or fewer employees as of January 1, 2020; and
- (2) Made more than \$1 million of net income in the previous tax year; then the employee will be eligible for five days of sick leave and unpaid leave until the termination of any mandatory or precautionary order of quarantine and isolation.

My employer employs 11-99 employees. Am I eligible for leave under state law? If so, what am I entitled to?

Yes. The employee is entitled to five days of sick leave at full pay and unpaid leave until the termination of any mandatory or precautionary order of quarantine and isolation.

My employer employs over 100 employees. Am I eligible for leave under state law? If so, what am I entitled to?

Yes. The caller is entitled to 14 days of paid sick leave at full pay under state law.

I'm receiving federal sick leave in response to COVID-19. Can I also collect leave benefits under state law?

No. Any employee who receives federal government sick leave and/or other benefits to employees in response to COVID-19 will have such leave and benefits counted toward the amounts of guaranteed leave and benefits under state law.

At what rate of pay does paid leave under state law need to be paid?

For the applicable paid leave period (5 or 14 days), employers must pay the amount that the worker would have otherwise received had they been continuing to work for that period based upon the amount that the employee was scheduled or would have been scheduled had the employer's operations continued in its normal due course. Employees who work a fixed schedule or are paid a salary should simply continue to receive pay for the applicable period. For hourly, part-time, commissions salespeople, and other employees who are not paid a fixed wage, employers should determine the employee's pay by looking at a representative period of time to set the employee's average daily pay rate.

What if I independently decide to quarantine – can I take COVID-19 quarantine leave under state law?

This new law provides benefits in cases where an individual is under an order of quarantine – either mandatory or precautionary. Entities that may issue an “order” include the State of New York, New York State Department of Health, local Board of Health or any government entity authorized to issue such order.

I have been quarantined due to COVID-19. Can I take Paid Family Leave/disability benefits quarantine leave for myself?

Yes. If the call is under a mandatory or precautionary order of quarantine or isolation issued by New York State, the department of health, local board of health, or government entity, they may be eligible to take disability and Paid Family Leave benefits for themselves unless they are not showing symptoms and are physically able to work through remote access or similar means. They must use their available quarantine paid sick leave before taking Paid Family Leave and disability benefits, and then they can apply for these benefits for the remainder of their quarantine.

Does my citizenship or immigration status affect my eligibility for COVID-19 Paid Leave?

No, citizenship or immigration status is not a factor in eligibility.

Do I have to apply for COVID-19 quarantine leave?

No. The caller does not have to apply for paid sick days if their employer is required to offer them. If they run out of sick days from their employer, then they would need to apply for Paid Family Leave and disability benefits for compensation during the rest of their quarantine.

When will I get paid for the disability benefit and Paid Family Leave portion of my quarantine leave?

The caller's employer's insurance carrier must pay or deny benefits within 18 calendar days of receiving their completed request for benefits. To ensure timely payment, make sure they completely fill out the required forms and attach the order of mandatory or precautionary quarantine.

It has been more than 18 days since my insurance carrier received my completed request for DB/PFL quarantine leave and they still have not paid or denied it. What should I do?

If it has been more than 18 days since the insurance carrier received the caller's completed request, they may file a request for arbitration based on the carrier's untimely decision. Arbitration is handled by NAM (National Arbitration and Mediation). More information can be found on NAM's website.

NEW YORK CITY PAID LEAVE BENEFITS

I don't qualify for federal or state leave. Am I out of options?

No. The caller may be eligible for paid leave under local law.

I have COVID-19. Can I take paid leave under local law?

If the caller works (1) for a NYC employer with 5 or more employees and (2) over 80 hours/year, then the caller will be eligible for paid sick leave under local law.

I am caring for a family member who has COVID-19. Can I take paid leave under local law?

If the caller works (1) for a NYC employer with 5 or more employees and (2) over 80 hours/year, then the caller will be eligible for paid sick leave under local law.

My place of business was ordered shut due to COVID-19. Can I take leave under local law?

If the caller works (1) for a NYC employer with 5 or more employees and (2) over 80 hours/year, then the caller will be eligible for paid sick leave under local law.

I have to stay home to care for my child due to the closure of the City's public schools. Can I take leave under local law?

If the caller works (1) for a NYC employer with 5 or more employees and (2) over 80 hours/year, then the caller will be eligible for paid sick leave under local law.

How can I calculate the amount of leave I'm entitled to under local law?

The amount of leave is based on how many hours the caller works. Employees are eligible for one hour of leave for every 30 hours they work, up to a maximum of 40 hours/year.

These resources – like the public health crisis itself – are constantly evolving and are only current as to the date of publication. This document was last updated on May 14, 2021.

We recommend that you monitor the Department of Labor and Volunteers of Legal Service website, as well as the sites referenced in these resources, for updates and changes as we expect the situation and solutions to change over the coming weeks and months.

For information on specific programs, we encourage you to visit the websites of the organizations or government entities that are responsible for the relief.

We also encourage you to review the “Resources for Persons who Have Lost Jobs or Income due to COVID-19” accompanying these materials.

For their invaluable contributions to the drafting and preparation of this resource, Volunteers of Legal Service wishes to thank

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