

UPDATE:

COVID-19
"Wage
Replacement"
Laws

- UNEMPLOYMENT BENEFITS, \$1200 CARES ACT PAYMENTS
- EMERGENCY PAID SICK LEAVE, EXPANDED PAID FAMILY MEDICAL LEAVE
- BENEFITS TO REPLACE LOST WAGES DURING THIS CRISIS
- CARES ACT "LOANS"



Unemployment Benefits

- \$250 Billion for more UI than already provided
- Already receive 60 to 70% of wages for 26 weeks
- This law adds:
 - 1. additional \$600/week for up to 4 months, through July 31
 - 2. additional 13 weeks (so up to 39 weeks) at regular rate

Unemployment Benefits for Formerly Ineligible: “PUA”

- Self-employed individuals
- Freelancers
- Independent contractors
- Part Time Workers not otherwise eligible
- Also: Individuals who may have qualified for regular unemployment but have collected all benefits for which they are eligible

- IT’S CALLED “PUA” – PANDEMIC UNEMPLOYMENT ASSISTANCE” – “PUA”

How to Get UI Benefits

- Apply at
 - www.edd.ca.gov
- When in doubt, apply – the EDD will make determinations
- More info: [https://edd.ca.gov/About EDD/pdf/news-20-09.pdf](https://edd.ca.gov/About_EDD/pdf/news-20-09.pdf)

UNEMPLOYMENT BENEFITS UPDATES

- CA EDD clarifies relevant time periods for assistance to new:
 - 39 weeks of benefits starts with weeks of unemployment starting 2/2/2020 through 12/31/2020; and
 - Only weeks of a claim between March 29 and July 31 are eligible for extra \$600 payments
- PUA: \$167/wk 2/2/ to 3/28; then \$167+\$600 3/29-7/25; then \$167 7/26 – 12/26
- CA EDD states, as to PUA independent contractors/self-employed/etc.
-- if not a citizen then must have valid work authorization

Unemployment PUA Benefits Updates

- CA EDD clarifies eligibility criteria for PUA benefits:
 - Diagnosed w/ COVID 19 or are experiencing symptoms of COVID 19 and seeking diagnosis
 - Unable to work b/c healthcare provider advised you to self-quarantine due to concerns related to COVID 19
 - Member of household has been diagnosed with COVID 19
 - Providing care for a family member/ member of your household who has been diagnosed with COVID 19
 - **Child/** other person in household for whom you have **primary caregiving responsibility** is unable to attend school or another facility that is closed as direct result of COVID 19 and school or facility care is required for you to work
 - Became breadwinner or major support for household b/c head of household has died as a direct result of COVID 19
 - Have **had to quit your job** as a direct result of COVID 19
 - **Place of employment closed** as direct result of COVID 19
 - Were scheduled to start job that is now unavailable due to COVID 19
 - **Unable to reach place of employment** due to COVID 19
 - If you work as an independent contractor with reportable income, you may also qualify for PUA benefits if unemployed, partially employed, or unable or unavailable to work because COVID 19 health emergency has **severely limited ability to continue performing your customary work activities**, and has thereby forced you to stop working

When Employees File UI Claim (at www.edd.ca.gov)

- If an employee, file immediately.
- If not sure whether you are an employee or independent contractor, file immediately.
 - This includes folks who think they may be an employee under AB 5.
 - AB 5: You are employee, and get UI, unless employer can show:
 - Work free from direction and control by employer, AND
 - Work is not in usual course of employer's business; AND
 - Worker engaged in independently established trade or profession

When do PUA newly eligible file UI Claim?

- For those newly entitled to UI benefits (business owners, self-employed individuals, independent contractors): be ready to file online on **Tuesday, April 28th**.
- If you already filed, and were denied benefits, file via this new online process.
- Extended EDD hours, more staffing.
 - 8am to 8pm
 - Added almost 1000 state workers to EDD staff

Updates re: \$1200 CARES Act Checks

- Recap: Most are supposed to get a payment from the government for up to \$1200. (If you make \$75k or \$150k as a married couple, you get full amount then it phases out.)
- Update 1
 - Debt collection issues: cash and withdraw amounts ASAP
- Update 2: Payment issues
 - Those using popular tax services unable to get payment b/c IRS doesn't have e-deposit information
 - Some didn't get extra \$500 per child under 17
 - IRS launched "Get My Payment," but receive statement that "Payment Status Not Available."
 - Paper checks expected to start going out this week.
- Also: Beware of fraud! And see [irs.gov](https://www.irs.gov) for info relating to status of payment.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

- Creates 2 New Paid Leave Programs
 - Emergency Paid Sick Leave Act
 - Emergency Family & Medical Leave Expansion Act
- Effective April 1, 2020, through December 31, 2020
- Applies to All Employers w/ Less than 500 Employees in the U.S. (who counts?)
- Possible Exempt Employers: Employers w/Less than 50 EEs, Health Care Providers, Emergency Responders

1. FF Emergency Paid Sick Leave Act

- If **Employee is unable to work or telework for ONE of these reasons:**
 - ***You are subject to quarantine or isolation order related to COVID 19, or***
 - ***You are advised by a health care provider to self-quarantine, or***
 - ***You are experiencing symptoms and seeking medical diagnosis, or***
 - You are caring for someone subject to quarantine or with symptoms, or
 - You are caring for children because schools closed due to COVID 19, or
 - You are experiencing ‘any other substantially similar conditions’
- **NOTE: regular rate for first three reasons, 2/3 regular rate for second three**
- You are eligible if you fulfill **any 1** of these 6 conditions

Paid Sick Leave – Part Two

- No required duration of employment
- Full Time EEs: Entitled to 80 hours of additional paid sick leave (Full Time includes EEs w/ irregular schedule who work an average of 40 hrs/workweek)
- Part Time EEs: Entitled to fraction of 80 hours equal to fraction of 40 hour job you have: Pro Rated (calculation: normal over two weeks)
- Paid at regular rate of pay up to \$511/day, or total of \$5,110 if for 1, 2, 3: your own problem
- Paid at \$200/day up to \$2000 if for 4,5,6 – caring for someone else
- May take this before they take other benefits (other vacation, sick leave, PTO)

2. FF Emergency Family & Medical Leave Act Expansion

- If employed for at least 30 days with employer (at the time of leave request)
- If employer has fewer than 500 employees
- IF YOU HAVE TO CARE FOR CHILDREN UNDER 18 BECAUSE OF SCHOOL CLOSURE

FF Emergency FMLA Expansion – Part Two

- Unpaid leave for first 10 days (can use Emergency Sick **or other** Leave then)
 - “Expanded FMLA and Emergency PSL intended to overlap, but only for reason of caring for kids”
- Pay is at least 2/3 regular rate of pay times usual number of hours
- But no more than \$200/day and \$10,000 total
- Can add it to other kinds of paid leave already available
 - Vacation, Sick Leave, PTO, State benefits, etc.

AND ADDED FOOD BENEFITS

- AND EXTENDED SNAP (FOOD STAMP) BENEFITS
- AND SCHOOL LUNCH REPLACEMENT PROGRAM
- AND MILLIONS MORE TO FOOD BANKS

Disaster Relief Funds for Undocumented Workers

- One-time cash benefit of \$500 per person (max \$1000 per household)
- Available to approximately 150,000 undocumented adults in CA
- Application will go live in May; additional details still to come
- The State has pledged \$75 million for this, and private foundations have pledged to add \$50 million, for a total of \$125 million

Paid Sick Leave for Food Service Workers (Employers w/ 500+ employees)

- Two weeks (80 hours) of paid sick leave directly from employer
- Eligible if sick or subject to quarantine/isolation order or doctor order
- Available to employees of large food service employers who were carved out of FFCRA, i.e., farmworkers, agricultural workers, grocery store and fast food chain workers, as well as delivery drivers
- The Executive Order also gives workers protected right to hand-washing break every 30 mins

Funding for Essential Worker Childcare

- Governor has released \$100 million to support child care services
 - \$50 million to create 20,000 limited-term additional state-subsidized slots for childcare, available to children of “essential infrastructure” workers
 - Health care
 - Emergency response personnel
 - Law enforcement
 - Food service
 - Additional \$50 million to ensure that existing facilities are safe and clean
- Additional details still to be announced

Coordination Of FFCRA & Employer Benefits

- FFCRA Leave and Accrued Contractual Benefits
 - FFCRA leave is “in addition” to any type of leave employer already provides
 - Employer cannot comply with the FFCRA by using already existing leave
 - Employer cannot **require** employees to use other paid leave (sick, vacation, PTO) before employee uses FFCRA sick leave, BUT employee can **choose** to
 - Employee must be otherwise eligible for employer-based leave
 - Example: if employee is using EFMLA due to school closure, they might not qualify for employer’s sick leave, because they are not “sick”

Coordinating FFRCA Benefits(cont.)

- New paid sick leave (first 2 weeks): **both** employee & employer must **agree** to supplement paid leave benefit with other accrued leave to reach full wages (“true up”)
 - ONLY if due to school closure & need to care for children
- New paid family leave (next 10 weeks): **either** employee or employer can **demand** that the employee uses other accrued leave to “true up” to full wages
- If employee is eligible for paid family leave but not paid sick leave, **either** employee or employer can **demand** that employee use other accrued leave during first 2 weeks

Coordinating FFRCA Benefits & State Benefits

- Employee can use CA Paid Sick Leave (24 hours) or Paid Family Leave(6 to 8 weeks) prior to new Family First benefits
- Employees receiving temporary disability benefits through SDI or workers' comp are not entitled to Family First leave, unless they return to light duty
- Employees receiving unemployment insurance (UI) benefits due to employer's closure are likely not also eligible for Family First leave benefits

PAYCHECK PROTECTION PROGRAM UPDATES

- The Treasury reports that the \$350 Billion is gone – no record of which companies receive it
- EIDL \$2 million “seems” to be about \$25k to \$35k each; this money is gone – SBA says it stopped taking applications as of April 16th
- Meanwhile, back in D.C.: a new \$460 Billion Bill at issue
 - \$300 Billion more for Paycheck Protection Program (PPP)
 - \$60 Billion more for Emergency Injury Disaster Loans (EIDL)
 - \$75 Billion for Hospitals
 - \$25 Billion for Testing
 - (Nothing for States, Local Governments, Unemployment Insurance, Wage Supplements)

Resources

- www.unioncounsel.net
- www.covid19.ca.gov
- <https://www.cdph.ca.gov/Pages/LocalHealthServicesAndOffices.aspx>
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