

# MSF CLIENT ALERT

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## Resources for Employers: Unemployment Benefits Under the CARES Act

*New York State's Department of Labor has issued new resources relating to state Unemployment Insurance benefits and the additional benefits provided by the CARES Act.*

*April 13, 2020*

In the wake of the COVID-19 pandemic, claims for Unemployment Insurance benefits have significantly increased. To address the increased applications and remediate the difficulties applicants have had filing for benefits, the New York State Department of Labor (the "DOL") developed a new application and filing system for benefits that is already live. This application and system is only for new applicants. Additionally, the DOL will reach out to individuals directly rather than requiring individuals to call the DOL once their application is submitted. Those individuals who have already applied for benefits should use the existing system. The DOL also released a Public Service Announcement Video to address complications that have developed due to this surge, published Frequently Asked Questions addressing the additional unemployment benefits provided under the CARES Act, and issued guidance for self-employed individuals.

### ***New York State Department of Labor Public Service Announcement***

The New York State Department of Labor PSA informs New York Unemployment Insurance benefits claimants that the Department of Labor is adding staff, increasing hours, and adding web servers to better serve the increase in volume. The PSA also recommends claimants file their applications on a specified day of the

week corresponding with the claimant's last name. Claimants with last names beginning with A-F should file on Mondays; claimants with last names beginning with G-N should file on Tuesdays; and claimants with last names O-Z should file on Wednesdays. Claimants who miss their filing day can file on Thursday, Friday, or Saturday regardless of their last name. The DOL has extended telephone filing hours as follows:

- Monday through Thursday: 8:00 AM to 7:30 PM
- Friday: 8:00 AM to 6:00 PM
- Saturday: 7:30 AM to 8:00 PM

The DOL has stated that everyone who is eligible for Unemployment Insurance benefits will receive every cent they are owed, even if they file late. All claims filed will be backdated to the date the claimant became unemployed.

The PSA can be viewed here:

<https://www.youtube.com/watch?v=XZ4QNYyg5dc>

### ***The DOL's Frequently Asked Questions***

The FAQs updated on March 31, 2020 provide information about additional unemployment benefits pursuant to the CARES Act. The law provides for Pandemic Unemployment Assistance, Pandemic

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Unemployment Compensation, and Pandemic Emergency Unemployment Compensation.

Claimants seeking Pandemic Unemployment Assistance, Pandemic Unemployment Compensation, and/or Pandemic Emergency Unemployment Compensation are required to first apply for State Unemployment Insurance benefits. If the claimant is deemed eligible for State Unemployment Insurance Benefits, additional benefits pursuant to the CARES Act will automatically be applied. If the claimant is deemed ineligible for State Unemployment Insurance benefits, the claimant will have to apply for additional benefits pursuant to the CARES Act. Claimants can apply for both Unemployment Insurance Benefits and Pandemic Unemployment Assistance online at labor.ny.gov. While this guidance is specific to New York, it is likely that all states are following this procedure with respect to benefits pursuant to the CARES Act.

***Pandemic Unemployment Assistance*** extends eligibility for individuals who have traditionally been ineligible for Unemployment Insurance benefits, such as those who are self-employed or independent contractors, and cannot work due to COVID-19. Claimants are eligible for Pandemic Unemployment Assistance if they cannot work because they:

- Are diagnosed COVID-19 or have COVID-19 symptoms and are seeking diagnosis;
- Have a member of the household who is diagnosed with COVID-19;
- Are providing care for a family or household member diagnosed with COVID-19;
- Are the primary caregiver for a child whose school or care facility closed, due to COVID-19;

- Are unable to reach their place of employment due to an imposed quarantine, or because advised by medical provider to self-quarantine, due to COVID-19;
- Were scheduled to start new employment and cannot reach the workplace as direct result of COVID-19;
- Became the major breadwinner because the head of household died from COVID-19;
- Quit their job as a direct result of COVID-19;
- Had their place of employment closed as a direct result of COVID-19; or
- Meet any additional criteria specified by U.S. Secretary of Labor.

Claimants are not eligible for PUA benefits if they can telework or are receiving other paid leave benefits. Benefits will be applied retroactively. Claimants *in any position* who are no longer receiving income, and meet one or more of the criteria above, should apply for UI benefits, and subsequently PUA benefits. Claimants *in any position* who are still employed but work less than four (4) days per week and earn five hundred and four dollars (\$504) or less per week, may be eligible to receive partial UI benefits.

## ***Pandemic Unemployment Compensation***

provides an additional six hundred dollars (\$600) per week, on top of regular state provided benefits, to all Unemployment Insurance recipients. PUC benefits will be automatically applied to all UI benefit and PUA benefit recipients. This benefit will continue as long as the claimant is eligible for UI and PUA benefits through July 31, 2020.

## ***Pandemic Emergency Unemployment Compensation***

provides an additional thirteen (13) weeks of Unemployment Insurance benefits, beyond the

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regular twenty-six (26) weeks already provided, for a total of thirty-nine (39) weeks of coverage. Claimants who already exhausted their twenty-six (26) weeks of benefits after July 1, 2019 are eligible to receive the additional thirteen (13) weeks of benefits.

The full FAQs can be accessed here ([https://coronavirus.health.ny.gov/system/files/document/s/2020/04/dol\\_unemploymentinsurancefaq\\_032720\\_0.pdf](https://coronavirus.health.ny.gov/system/files/document/s/2020/04/dol_unemploymentinsurancefaq_032720_0.pdf)).

## Guidance for Self-Employed Individuals

The guidance provides instructions to self-employed individuals on how to answer certain questions when applying for unemployment benefits that would typically cause confusion due to the nature of their employment. Specifically, the guidance clarifies how to respond to the following questions when self-employed individuals apply for unemployment benefits:

- How many employers have you worked for in the past 18 months?
- Other than part-time work, on-call work, or owning a single-family rental unit, do you have a business or are you engaged in any activity which brings in or may bring in income?
- Provide the Federal Employer Identification Number or New York State Employer Registration Number
- Provide the following information about your most recent employer. When you have finished, click Continue.

The guidance for self-employed individuals can be found here: (<https://labor.ny.gov/ui/pdfs/self-employed-ui-guide.pdf>).

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Please contact an attorney in MSF's Employment Group if you need assistance with respect to this information.



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