

New Hampshire Employment Security Unemployment Compensation Update May 4, 2020

(1) Eligibility under the Pandemic Unemployment Assistance (PUA) Program created by the CARES Act: In addition to regular state UI eligibility where a worker is unemployed through no fault of their own, the CARES Act created additional categories of eligibility for federal UI benefits under the PUA program. These PUA categories of eligibility track quite closely with the expanded eligibility created under Governor Sununu's emergency order #5 issued on March 17th. The PUA eligibility categories include the following and all require the applicant to SELF-CERTIFY:

- You have been diagnosed with COVID-19 or are experiencing symptoms and are seeking a medical diagnosis;
- A member of your household has been diagnosed with COVID-19;
- You are providing care for a family member or household member diagnosed with COVID-19;
- You have primary caregiving responsibility for a dependent in your household that is unable to attend school or day care because the facility is closed because of COVID-19;
- You are unable to reach your job because of an imposed quarantine;
- You have been advised by a health care provider to self-quarantine;
- You were scheduled to start a job and that job is no longer available because of COVID-19;
- You have become the breadwinner for the household because the head of the household has died as a result of COVID-19;
- You have to quit your job as a direct result of COVID-19;
- Your place of employment is closed because of COVID-19; or
- You are self-employed and you meet any of the above.

Regarding the category for primary caregiving responsibility, this will be allowed to continue into the summer if the parent self-certifies that the child care, summer camps, etc., that they would normally have relied upon during the summer, is no longer available because of COVID-19.

Regarding the category of quitting your employment as a direct result of COVID-19, this is much more limited than an initial reading would suggest. The guidance that has been issued requires that only an individual that is self-quarantined at the direction of a health care provider, government official such as public health, or employer, would qualify under this provision. If you are self-quarantining out of your own general concern with COVID-19 then you do not qualify for benefits unless you are able to self-certify as to meeting one of the other qualifying categories of eligibility related to COVID-19.

(2) Suitable Offers of employment/Impact on UI Eligibility: USDOL issued clarifying guidance last week excerpted below, which addresses the issue of whether a worker that refuses a suitable offer of employment, whether that worker can continue to collect UI under the federal PUA program. Below is the question and answer as included in the recently released Federal guidance together with some discussion:

- Question Submitted to USDOL: Is an individual who refuses an offer of work eligible for PUA?
- USDOL Answer: No, unless the individual is unable to work as a direct result of COVID-19. Eligibility for PUA requires that the individual be able to work and available to work within the meaning of applicable state law, unless the individual is unable or unavailable to accept the offer of work because of a reason listed under section 2102(a)(3)(A)(ii)(I) (see above) of the CARES Act, he or she would not be eligible for PUA.

(3) Ability to Self-Quarantine out of Concern with COVID-19 and collect UI: USDOL issued clarifying guidance last week excerpted below, which addresses the scope of what is considered allowable in terms of self-quarantining under the CARES Act:

- Question Submitted to USDOL: If the jurisdiction's stay at home order due to the COVID-19 emergency is lifted and an employer has called his or her employees back to work, is an individual who refuses to return to work due to a general fear of exposure to the coronavirus still eligible for PUA?
- USDOL Answer: To qualify for PUA, the individual must be unemployed, partially unemployed, or unable or unavailable to work because of a COVID-19 related reason listed in section 2102(a)(3)(A)(ii)(I) (see above). 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-19 related criteria for PUA, is not eligible for PUA because general concerns about exposure to COVID-19 is not one of the reasons listed in section 2102(a)(3)(A)(ii)(I).