

LIUNA!

April 13, 2020

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TO ALL LIUNA AFFILIATES IN THE UNITED STATES

Re: Unemployment Insurance During the COVID-19 Emergency

Dear Brothers and Sisters:

As you know, the economic fallout of the COVID-19 pandemic has created an unprecedented demand for unemployment insurance benefits to assist those who are unemployed or underemployed through no fault of their own.

Congress passed several measures designed to provide flexibility and federal funding to states in their implementation of Unemployment Insurance (UI) programs. This letter provides you with a brief overview of the federal enhancements enacted as a result of the COVID-19 situation. Since these programs are administered by state agencies, the most detailed and up-to-date information will be available on the website of your state UI agency, so I urge you to consult that resource as well. These unemployment benefit enhancements are part of the \$2 trillion economic stimulus package that includes even larger sums for employers to encourage them to retain employees so that these unemployment benefits will not be needed. We have summarized stimulus programs providing payments to employers in other letters.

The most significant changes to the UI system, to date, are found in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020.

The CARES Act significantly expands UI benefits through three new federally-funded programs – Pandemic Unemployment Compensation, Pandemic Emergency Unemployment Compensation and Pandemic Unemployment Assistance. These programs are administered through agreements between the federal government and the states and U.S. territories.

Among other things, the CARES Act provides:

- enhanced UI benefits and extended UI benefits;
- incentives for states to waive the one-week waiting period normally applicable under state unemployment compensation laws;

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- incentives for states to allow benefits for “work share” arrangements in which employers defer layoffs by continuing to employ their workforces at reduced hours; and
- flexibility to states in interpreting eligibility if a COVID-19 factor is involved (such as an employee needing to self-quarantine or care for others).

Briefly, the main features are:

1. Pandemic Unemployment Compensation – The CARES Act increases the amount of unemployment insurance available to individuals otherwise eligible for unemployment insurance benefits by \$600 per week, commencing March 27 and ending July 31, 2020. This additional flat amount is payable to all individuals receiving unemployment benefits at the same time as regular unemployment compensation benefits, either in a separate payment or as part of the regular unemployment payment.
2. Pandemic Emergency Unemployment Compensation – The CARES Act provides for an additional 13 weeks of state benefits after an individual has exhausted regular state unemployment compensation benefits, through December 31, 2020. The amount payable includes the amount of regular state unemployment compensation and the \$600 per week of federal pandemic unemployment compensation.
3. Waiver of One-Week Waiting Period – The CARES Act requires the federal government to reimburse benefits paid during the first week of an individual’s unemployment if a state waives the one-week waiting period normally applicable under state unemployment compensation laws. As of today, most states that had one-week waiting periods, but not all, have either waived or suspended the waiting periods.
4. Funding of “Short-Time Compensation” or “Work Share” Programs – The CARES Act provides that the federal government will provide funding for 100% of unemployment compensation paid under “short-time compensation” or “work share” programs, which provide unemployment benefits to employees experiencing reduced hours and pay, in lieu of layoffs. The CARES Act also provides incentives to states for the creation of such programs if they do not yet exist.
5. Pandemic Unemployment Assistance – The CARES Act provides for up to 39 weeks of federal unemployment assistance to workers otherwise ineligible for state regular or extended unemployment benefits, including those who have exhausted regular or extended benefits, independent contractors and persons with limited recent work histories, who are directly impacted by COVID-19.

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Benefit payments are retroactive for weeks of unemployment, partial unemployment or inability to work due to COVID-19 reasons specified below, starting on or after January 27, 2020.

A self-certification is required, stating that the claimant is otherwise available and able to work, except that the person is unemployed, partially unemployed, unable to work or unavailable for work as a result of one or more of the following circumstances:

- a. Having been diagnosed with COVID-19 or experiencing symptoms and seeking diagnosis;
- b. Having a member of their household diagnosed with COVID-19;
- c. Caring for a family or household member diagnosed with COVID-19;
- d. Having a child or other household member unable to attend school or another facility as a result of COVID-19 and the school/care facility is required for the claimant to work;
- e. Being unable to reach work due to quarantine;
- f. Being unable to work due to self-quarantine on the advice of a health care provider;
- g. Being scheduled to begin work but no longer having a job or being unable to reach a job as a direct result of COVID-19;
- h. Having become the head of household as a direct result of another's death from COVID-19;
- i. Having to quit a job as a direct result of COVID-19;
- j. Place of employment has closed as a direct result of COVID-19;
or
- k. Additional categories or criteria that may be established by the Secretary of Labor.

This program is generally *not* available to individuals who have the ability to telework with pay or are receiving paid sick leave or other paid leave benefits. However, individuals receiving paid sick leave or other paid leave benefits for *less than* their customary work week or individuals offered telework with pay who work less than they did prior to the COVID-19 pandemic, may be eligible for this benefit if the reduction in work or paid benefits is because of the pandemic.

Please also be aware of several important considerations.

First, although states have been granted flexibility by the federal government in allowing UI benefits to those who are affected by COVID-19, the manner in which each state has chosen to implement its own UI program varies a great deal. For example:

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- Some states allow eligibility for employees subject to mandatory quarantine orders, but others do not, due to an interpretation that this would prevent the employee from being “available to work.”
- Some states have waived or modified work-search requirements for employees claiming unemployment, while other states have been silent on this issue.
- Several states have waived the work-search requirement for at least a certain period of time due to the pandemic (the duration of waiver varies by state).
- Some state unemployment agencies may issue special instructions for independent contractors or self-employed individuals. Benefits for those claimants will be based on tax returns filed for the previous year.

Second, in order to collect unemployment insurance benefits, claimants must be “able and available for work” which has been interpreted to mean able to fulfill state requirements showing that they were, and are, authorized to work. Generally, this means *both* authorized to work at the time of the claim (often referred to as the “benefits period”) *and* authorized to work during the time period claimed (the “base period”). The status of being “authorized to work” generally includes Deferred Action for Childhood Arrivals (DACA) recipients; those on Temporary Protected Status (TPS); certain applicants for TPS, asylum and suspension of deportation or cancellation of removal proceedings; and those in the process of adjusting their immigration status.

If members are unsure whether they qualify for unemployment insurance benefits, it is best to encourage them to file a claim, unless they have been specifically advised not to file a claim by state guidance or state authorities.

Your work in providing assistance and information to our members is extremely valuable and deeply appreciated at this difficult time.

With kind regards, I am

Fraternally yours,



TERRY O'SULLIVAN
General President

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