



— A Project of The Foundation for Government Accountability —

Pandemic Unemployment Assistance

On March 27, 2020, the CARES Act was enacted, which includes the Relief for Workers Affected by Coronavirus Act. Section 2102 of the CARES Act created a new, temporary federal program called the Pandemic Unemployment Assistance (PUA) Program. PUA is a last resort benefit providing unemployment benefits to individuals not eligible for Unemployment Compensation (UC), Pandemic Emergency Unemployment Compensation (PEUC), or Extended Benefits (EB).

The benefit is intended for those seeking part-time employment or lacking sufficient wage history, or otherwise not qualified for UC, PEUC, or EB, as well as the self-employed.

It also gives benefits to the unemployed, partially unemployed, or those unable or unavailable to work due to a COVID-19 related reason.

KEY POINT #1

The Department of Labor (DOL) created three new eligibility provisions for PUA through a letter to states on February 25, 2021:



Individuals who **refuse to either return to work or accept new work** because they feel it's unsafe;



Certain individuals **providing services to educational institutions** or educational service agencies; and



Individuals experiencing a **reduction of hours or a temporary or permanent layoff.**

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KEY POINT #2

The new provisions allow state residents to receive pandemic unemployment benefits even when they refuse to return to work or accept an offer to work.

All they are required to do is merely self-certify that the worksite is not in compliance with either local, state, or national COVID-19 standards related to mask wearing, social distancing, or other measures.

These new provisions will promote fraud and abuse, unfairly benefit mismanaged states, and inhibit states' abilities to quickly and safely reopen schools and get residents back to work.

KEY POINT #3

The law may be legally challenged by states on at least two grounds:

1

The statutory language **granting the DOL the authority to add "any" criteria** is overly broad.

2

The DOL has **exceeded its authority under the statute** by applying the benefits retroactively.

THE BOTTOM LINE

Biden wants to continue his war on work by expanding unemployment insurance to become a limitless welfare program. Despite being touted as temporary, this retroactive and illegal interpretation of the CARES Act can be continued as long as Biden continues the public health emergency.

This guidance may be challenged by states seeking to support small businesses and encourage their citizens to reengage in the workplace.