

## Unemployment Insurance Provisions of the CARES Act

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On Friday, March 27, 2020, the U.S. House of Representatives passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which the U.S. Senate had passed by unanimous vote on Thursday, March 26, 2020. President Trump promptly signed the bill into law.

The CARES Act is the latest, and most comprehensive yet, of three federal legislative efforts to combat COVID-19. It will provide an estimated \$2 trillion in economic stimulus through a sweeping array of programs and initiatives, including direct payments to Americans, tax and loan relief for businesses, funding for the health care industry, and, the focus of this GT Alert, emergency unemployment insurance benefits for individuals affected by the pandemic.

### **The CARES Act's Notable Unemployment Compensation Provisions Applicable to Individuals Already Eligible for Unemployment Compensation Under State Law**

Under Section 2104 of the Act, individuals who are otherwise eligible for unemployment benefits under state or federal law will receive \$600 per week, in addition to their regular unemployment compensation under state law, through July 2020.

Under Section 2105, if a state waives its standard one-week waiting period requirement, thus paying recipients as soon as they become unemployed, the federal government will fund the cost of that first week of benefits.

Under Section 2107, if individuals remain unemployed after their state employment benefits are exhausted, the federal government will fund up to 13 weeks of additional unemployment benefits – thereby increasing to 39 weeks the 26-week maximum common under most states' unemployment laws – at a weekly rate of \$600 during that 13-week period.

Finally, under Sections 2108 and 2109, the Act will provide funding to states that currently have or choose to implement a Short-Time Compensation (STC) program for employers that reduce their employees' hours in lieu of a lay-off and whereby the employees thus receive a pro-rated unemployment benefit. The federal government will fund 100% of the costs for states that currently have a STC program and 50% for those states that choose to implement one, in each case through Dec. 31, 2020.

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## **The Pandemic Unemployment Assistance Program Applicable to Individuals Not Otherwise Eligible for Unemployment Compensation**

The Act, in Section 2102, will create a temporary, federally funded “Pandemic Unemployment Assistance” program providing unemployment benefits to individuals who otherwise would be ineligible for such benefits under state or federal law – such as individuals who are self-employed (for example, consultants or independent contractors), who are seeking part-time employment, or who lack sufficient work history. The Pandemic Unemployment Assistance program covers any individual who: (1) is not otherwise eligible for, or has exhausted all rights to, unemployment benefits; and (2) is unemployed, partially unemployed, or unable to work because of any of the following COVID-19-related circumstances:

- The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- A member of the individual’s household has been diagnosed with COVID-19;
- The individual is providing care for a family member or household member who has been diagnosed with COVID-19;
- The individual is the primary caregiver for a child or other person in the household who is unable to attend school or another facility that has been closed as a direct result of COVID-19 and such school or facility care is required for the individual to work;
- The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of COVID-19;
- The individual is unable to reach the place of employment because a health care provider has advised the individual to self-quarantine due to COVID-19 concerns;
- The individual was scheduled to begin employment and does not have a job or is unable to reach the job as a direct result of COVID-19;
- The individual has become the breadwinner or major support for a household because the head of household has died as a direct result of COVID-19;
- The individual has been forced to quit a job as a direct result of COVID-19;
- The individual’s place of employment is closed as a direct result of COVID-19.

Excluded from the Pandemic Unemployment Assistance program are any individuals able to telework with pay or currently receiving paid sick leave or other paid leave benefits.

Unlike many states’ unemployment laws, the Pandemic Unemployment Assistance program does not require a covered individual to be actively seeking work to receive unemployment benefits under the program.

Benefits under the Pandemic Unemployment Assistance program are available for the duration of the covered individual’s period of unemployment, partial unemployment, or inability to work, beginning

retroactively on Jan. 27, 2020 and ending on Dec. 31, 2020, up to a maximum of 39 weeks. This represents a 13-week increase of the 26-week maximum allowed under many states' unemployment laws.

The weekly amount of benefits available under the Pandemic Unemployment Assistance program will equal 100% of the covered individual's regular weekly compensation, and not less than \$600 per week.

The Pandemic Unemployment Assistance program does not require any waiting period before eligibility for benefits, unlike many states' unemployment laws that do not provide benefits for the first week of unemployment.

## **Conclusion**

The exact meaning and scope of the Act's unemployment provisions are uncertain and such issues may be resolved only over time by administrative regulation and guidance as well as civil litigation and judicial decision.

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