OVERVIEW OF UNEMPLOYMENT INSURANCE IN NYS DURING COVID-19 & ELIGIBILITY REQUIREMENTS

OVERVIEW:

1. Regular Unemployment Insurance (UI): temporary income for eligible workers who lose their jobs through no fault of their own

2. Pandemic Unemployment Assistance (PUA): for individuals who are not otherwise eligible for UI benefits and whose ability to work has been impacted by the Covid-19 public health emergency (there is one streamlined application for UI and PUA)

3. Pandemic Emergency Unemployment Compensation (PEUC): extension of UI eligibility for up to 53 additional weeks; this program expires the week ending September 5, 2021 and is not available for individuals whose original claim effective date is September 7, 2020 or later

4. Extended Benefits (EB): extension of benefits eligibility for up to 20 additional weeks under state law after a claimant has exhausted UI and PEUC benefits

1. REGULAR NY UNEMPLOYMENT BENEFITS

Basic UI eligibility

• Must be monetarily eligible for benefits
• Must have lost job through no fault of your own
• Must be capable, available and looking for work (somewhat flexible during this period)

Examples of Eligibility for Regular UI

• Business closed and laid off or furloughed workers

• Worker’s business closed down and their child’s school closed down (they can still look for work from home)

• Grocery store worker who has diabetes, asthma or other medical condition that puts that at risk for illness or death asks for a leave and quits for good cause
• Uber driver who has a lack of work due to crisis

Monetary Eligibility

Benefits are usually about half your average weekly wage up to $504.00. Under the Federal Coronavirus, Aid, Relief & Economic Security (CARES) Act, you should get an additional $600 on top of your regular benefit rate from April 5, 2020 through July 31, 2020 and an additional $300 on top of your regular benefit rate from January 3, 2021 through September 5, 2021. It is harder to determine the benefit rate for workers who do not consistently get the same earnings.

To qualify for benefits, you must meet all three of the following earnings requirements during your base period (basic, first 4 of the previous 5 quarter years, or alternate, last 4 of the previous 5 quarter years). You must have worked and been paid wages in jobs covered by Unemployment Insurance in at least two calendar quarters:

1. You must have been paid at least $2,600 in one calendar quarter:

2. The total wages paid to you must be at least 1.5 times the amount paid to you in your high quarter.

TIP: Estimate your benefits on NYS Department of Labor website: https://labor.ny.gov/benefit-rate-calculator/

2. PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION (PEUC)

This is a product of the CARES Act which provides enhanced unemployment benefits. These enhanced benefits programs were extended on December 27, 2020 and again on March 15, 2021.

If you exhausted your 26 weeks of regular UI after July 1, 2019, and you are still within 365 days of the claim that produced those benefits, you are eligible to restart benefits for up to 53 weeks. You may receive $600/week on top of your regular benefit rate from April 5, 2020 to July 31, 2020. You may receive $300/week on top of your regular benefit rate from January 3, 2021 to September 5, 2021. PEUC is not available for individuals whose original claim effective date is September 7, 2020 or later.

Officially, all you need to do is start recertifying weekly on your old claim. In practice, there have been major problems with implementing this.

3. PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA)

The CARES Act created the PUA program which provides benefits through September 5, 2021 for individuals who are:

• unemployed, partially unemployed, or
• unable or unavailable to work because of the COVID-19 public health emergency.  
  o If you anticipate losing your work, you must wait until you are no longer working to apply.
  o and are not otherwise eligible for benefits, such as individuals

• who have exhausted their regular benefits and/or PEUC, or

• who are not traditionally eligible, such as
  o the self-employed,
  o independent contractors,
  o those with insufficient work history.

• PUA applicants must NOT have the ability to telework with pay, nor be receiving paid sick leave or other paid leave benefits.

Benefits under PUA basically consist of:

• For a maximum period of 57 weeks between January 20, 2020 and September 5, 2021, including retroactive benefit:
  o For eligible claims made from the weeks ending April 5, 2020 through July 26, 2020, benefits at a combined rate of $600/week on top of the standard weekly benefit rate one would have received if otherwise eligible for benefits.
  o For eligible claims made from the weeks ending January 3, 2021 through September 5, 2021, benefits at a combined rate of $300/week on top of the standard weekly benefit rate one would have received if otherwise eligible for benefits.
  o The standard rate is easily established for those who were on regular UI benefits and exhausted them. For others who never would have been on UI benefits in the first place, the minimum PUA benefit amount is used to determine the weekly benefit. The minimum weekly PUA benefit amount is “50% of the average weekly payment of regular compensation in the state, as provided quarterly by the Department.”
  o New York’s maximum weekly rate for standard benefits is $504, and the minimum is $104. The minimum PUA benefit rate is 50% of the state’s average weekly benefit amount which is $190/week in New York.

HELPFUL LINKS/GUIDANCE:

• https://www.labor.ny.gov/ui/pdfs/ua-covid-faq.pdf
• https://labor.ny.gov/benefit-rate-calculator/
• https://labor.ny.gov/ui/cares-act.shtm
• https://labor.ny.gov/ui/pdfs/self-employed-ui-guide.pdf (only for people who have
only had self-employment for the last 18 months)

FAQS ON REGULAR UNEMPLOYMENT INSURANCE

Q: How long does NYS unemployment insurance last?
A: Normally 26 weeks but now there are potentially additional weeks under PEUC and EB.

Q: My most recent job paid more than my previous jobs – can I get a higher benefit rate?
A: Yes. By choosing the alternate base period (which includes the most recently completed quarter) you may bring your benefit rate up. Request the alternate base period within 10 days of the date of the monetary benefits determination sent to you by the DOL.

Q: My hours were reduced, am I eligible for regular UI?
A: New York has the worst partial unemployment law in the nation. You can get partial benefits if you worked fewer than four days and made less than the maximum benefit rate ($504) in a given week. You will not receive any benefits during weeks that you work four or more days or make more than the maximum benefit rate. Please be aware that any work, even for a few minutes a day, counts as a day of work. To the extent possible, concentrate your part-time into a minimum number of days.

Q: Are non-citizens eligible for unemployment benefits?
A: It depends. If you are a permanent resident or had work authorization (e.g. DACA) during the relevant base period and continue to have work authorization, you are eligible for benefits. However, if your work authorization was dependent on your employer, you may not be eligible. H1B visa holders (and others who have work authorization tied to one particular employer) have previously been considered unavailable for work after they were no longer employed and thus ineligible for benefits. Arguably, these types of visa holders may be available if temporarily furloughed.

Q: I have incorporated a business, or I have an S corporation. Am I eligible for UI?
A: It depends. If you have a part-time home-based business, you may be ineligible on the days that you are working. If your business is closed, you may be eligible. If you are not eligible for regular UI, you may still be eligible for PUA. Also, a person whose business is dormant or has closed down may also be eligible for regular UI.

Q: If I live in one state and work in another where should I apply for benefits?
A: You should apply in the state where you work, not where you live. If you work in more than one state, you have the choice of applying in either. Most states around New York (including New Jersey) have higher benefit rates, so you may want to apply in the other state.
Q: The questions on NYS unemployment application don’t apply to me because I don’t have a single employer/am paid through 1099s. How should I answer the questions or document my income?

A: If you have been paid by several employers, your W-2 employers usually show up, and you should be able to write in at least one of your 1099 employers in the application. If you have been misclassified as an Independent Contractor, you can send or fax in a reconsideration form and attempt to have your income counted. However, if you are a legitimate Independent Contractor, you will receive a monetary benefit determination with 0 benefits, but you still may be eligible for PUA.