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

OVERVIEW:

1. Regular Unemployment Insurance (UI): Many people may be eligible, and we are told you have to apply and be denied regular UI first before you can apply for Pandemic Unemployment;

2. Pandemic Emergency Unemployment Compensation (PEUC) (for individuals who were recently on UI but who exhausted their benefits)

3. Pandemic Unemployment Assistance (PUA) (for individuals who have traditionally been ineligible for UI benefits e.g., self-employed workers and independent contractors)

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. With the recent Federal CARES ACT you now should get an additional $600 on top of your regular benefit rate, from April 5 through July 31, 2020. 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).
1. You must have worked and been paid wages in jobs covered by Unemployment Insurance in at least two calendar quarters

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

3. 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 Coronavirus, Aid, Relief & Economic Security (CARES) Act.

   If you have exhausted your 26 weeks of regular UI after 7/1/19, and you are still within 365 days of the claim that produced those benefits, you are eligible to restart benefits for up to 13 weeks, and receive $600/week on top of your regular benefit rate, until 7/1/2020. 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)**

   Eligibility for benefits from 1/27/20 – 12/30/20 is provided by PUA (also created by federal CARES Act), for individuals who are:

   - unemployed, partially unemployed, or
   - unable or unavailable to work because of the COVID-19 public health emergency,
     - if you will be losing your work, you must wait until you are no longer working to apply.
   - 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
       - the self-employed,
       - independent contractors,
       - those with insufficient work history.
   - PUA applicants must have been turned down for regular UI before applying, and 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 39 weeks (26 + 13) between 1/27/2020 and 12/30/2020, including retroactive for unemployment beginning on or after 1/27/2020:
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.

The standard rate is easily established for those who were on benefits and exhausted them. For others who never would have been on UI benefits in the first place, the Federal Guidance has not been released, but we believe based on Federal Regulations that the benefit rate will be based on 2019 tax returns or a certification of net income from 2019, and will be averaged over the course of a year and determined by the monetary determination method(s) under regular NY State UI.

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. That makes it $190/week for 1/1/20-6/30/20 in New York—higher than the state minimum.

You can apply for PUA, once you are not working and have been denied regular UI benefits, at https://labor.ny.gov/unemploymentassistance.shtm using your gov. ID and then going on to online forms and selecting the PUA application. Here is a video of how to do that.

HELPFUL LINKS/GUIDANCE:

• https://www.labor.ny.gov/ui/pdfs/ui-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 13 additional weeks.

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: NY 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 of days.

Q: Are non-citizens eligible for unemployment?

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 unemployment. In the past H1B visa holders (and others who have work authorization tied to one particular employer) have been held to be unavailable for work and thus ineligible. Arguably, these type 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 might be eligible for PUA (more below). 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 unemployment?

A: You should apply in the state that 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 NY (including NJ) 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/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, you may be eligible for PUA.