



A Guide To Unemployment Benefits In California During Covid-19

Insights

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California's Unemployment Insurance (UI) program pays benefits to individuals who have become unemployed or partially unemployed and who meet the program's eligibility requirements. The eligibility requirements include that the individual filing for UI benefits must (1) have earned enough wages during the base period, (2) be unemployed through no fault of their own, (3) be physically able to work, (4) be available for work, (5) be ready and willing to accept work immediately, and (6) be actively looking for work. The base period is a 12-month term, or four quarters, that the Employment Development Department (EDD) uses to determine if the individual earned enough wages to establish a UI claim. The EDD also uses the base period to determine the individual's weekly benefit amount. For partial UI benefits, the EDD will first determine if the individual is eligible to receive benefits, and if so, the EDD will then calculate the individual's reduced weekly benefit amount. More information can be found [here](#).

Due to COVID-19, Governor Gavin Newsom issued Executive Order N-25-20, which states that the EDD may use its discretion to waive the one-week waiting period for UI applicants who are unemployed as a result of COVID-19, and who are otherwise eligible for UI benefits. Additionally, the EDD is not requiring workers who are working reduced hours or completely laid off to be actively seeking work.

Requirement to Qualify for UI Benefits

To establish a valid UI claim, the EDD looks at (1) the highest base period quarter (three-month period or 13 weeks) to see if the individual earned at least \$1,300; or in the alternative (2) the highest base period quarter to see if the individual earned at least \$900 and if the total base period earnings added together equals 1.25 times the individual's highest base period quarter earnings.

Base Period

There are two methods that can be used to calculate the base period: the standard base period method and the alternative base period method. Under the standard base period method, the first four of the last five base period quarters prior to the date that the individual files the UI claim are used to determine if an individual can establish a claim. If an individual does not have sufficient wages using the standard base period method to establish a claim, the EDD will use the second method called the alternative base period method. Under the alternative base period, the last four base period quarters prior to filing the claim are used.

Benefit Year

The benefit year is the 52-week period from the first day of the week that the individual files a valid UI claim.

Weekly benefit amount

The individual's weekly benefit amount is determined by taking the amount of wages the individual earned in their highest base period quarter and comparing it to the EDD's Unemployment Insurance Benefit Table [here](#). The EDD provides a weekly benefit amount calculator [here](#).

The minimum weekly benefit amount is \$40. The maximum weekly benefit amount is \$450. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, discussed below, eligible individuals may qualify for an extra \$600 weekly payment.

Maximum Weeks Paid

Under the CARES Act, eligible employees could receive UI benefits for up to 39 weeks.

If Employees Are Laid Off or Furloughed and Are Subject to Recall, Can They Receive Unemployment Benefits?

Yes. Individuals who have been laid off or furloughed without pay are generally eligible for unemployment benefits. To be eligible for UI benefits, the individual must be considered "unemployed" as defined by the California Unemployment Insurance Code. An individual is "unemployed" in any workweek that they (1) perform no services with respect to which any wages are payable; or (2) have less than full-time work, if the wages payable with respect to the week, when reduced by \$25 or 25% of the wages payable, whichever is greater, do not equal or exceed their weekly benefit amount.

May Employees Who Work Reduced Hours Receive Partial Unemployment Benefits?

Yes. As noted above, an individual is considered "unemployed" in any week of less than full-time work, if the wages payable to them with respect to the week, when reduced by \$25 or 25% of the wages payable, whichever is greater, do not equal or exceed their weekly benefit amount. Once it is determined that the individual is "unemployed" and qualifies for partial UI benefits, then the EDD will calculate their weekly benefit amount and reduced weekly benefit amount. The following example is used to illustrate how a reduced weekly benefit amount is calculated.

Assume that the individual earns \$13 per hour and has worked five days a week or 40 hours for the previous 15 months (five base period quarters).

Determine if the individual can establish a valid UI benefits claim based on their previous wages. To establish a valid UI claim, the EDD looks at (1) the highest base period quarter (3 month period or 13 weeks) to see if the individual earned at least \$1,300; or (2) the highest base period quarter to see if the individual earned at least \$900 and whether the total base period earnings added together equals 1.25 times the individual's highest base period quarter earnings

Using the standard base period method, the individual's highest base period quarter is:

- $\$13 \text{ per hour} \times 40 \text{ hours per week} = \520 per week

This individual is earning \$6,760 in their highest base period, which is more than the \$1,300 needed to establish a valid UI benefits claim.

How Are Partial Weekly Benefits Calculated?

First, calculate the individual's weekly benefit amount. The weekly benefit amount is the amount that the individual would receive if they were totally unemployed. The individual's weekly benefit amount is determined by taking the amount of wages that the individual earned in their highest base period quarter and comparing it to the EDD's Unemployment Insurance Benefit Table [here](#). In this scenario, the individual is earning \$6,760 in their highest base period quarter. Using the EDD's Unemployment Insurance Benefit Table, the individual's weekly benefit amount is \$260, which is the amount they would receive if totally unemployed.

Second, if the individual's hours are reduced from 40 hours per week to 24 hours per week, determine if the individual is "unemployed" and if they are eligible for partial UI benefits. To do so, look at whether the individual is working less than full time and whether the wages payable to them with respect to the week, when reduced by \$25 or 25% of the wages payable, whichever is greater, do not equal or exceed their weekly benefit amount. Assume the individual's weekly benefit amount is \$260, as calculated above.

In this scenario, the individual is eligible for partial UI benefits:

- $\$13 \text{ per hour} \times 24 \text{ hours per week} = \$312 \text{ current weekly wages}$
- Reduce by \$25 or 25% of \$312 (25% of \$312 = \$78), whichever is greater.
- Because \$78 is greater than \$25, we reduce the individual's current weekly wages by \$78.
- $\$312 - \$78 = \$234$
- This amount must not equal or exceed the individual's weekly benefit amount as calculated above (\$260).
- Because \$234 does not equal or exceed \$260, this individual is eligible for partial UI benefits.

Third, calculate the individual's reduced weekly benefit amount, which is the amount that the individual will receive under partial UI benefits. For partial UI benefits, the individual is paid the amount equal to their weekly benefits amount (calculated above) minus the smaller of the following: (1) the amount of wages in excess of \$25 payable to him or her for services rendered during that week; or (2) the amount of wages in excess of 25% of the amount of wages payable to him or her for services rendered during that week. Assume the individual's hours are reduced from 40 hours per week to 24 hours per week.

This individual's reduced weekly benefit amount is calculated as follows:

- $\$13 \text{ per hour} \times 24 \text{ hours per week} = \$312 \text{ current weekly wages}$
- The weekly benefit amount is \$260
- The weekly benefit amount is reduced by the smaller of
 - Current weekly wages in excess of \$25 ($\$312 - \$25 = \287); or
 - Current weekly wages in excess of 25% ($\$312 - (25\% \times \$312) = \$234$)
- Reduce \$260 by the smaller of \$287 and \$234
- $\$260 - \$234 = \$26$

This individual would receive a reduced weekly benefit amount of \$26 per week. Therefore, this individual would be earning a total of their current weekly wage (\$312) plus their reduced weekly benefits amount (\$26) for a total of \$338 per week.

As a summary, if the individual worked full time at \$13 per hour and 40 hours per week, this individual would make \$520 per week. If the individual's hours were reduced to 24 hours per week, this individual would receive a total of \$338 per week (\$26 in reduced UI benefits and their \$312 current weekly wages). If the individual is totally unemployed, the individual will receive their weekly benefit amount of \$260.

California's Work Sharing Program

The California Unemployment Insurance Work Sharing Program offers employers the ability to reduce employees' hours and wages as an alternative to avoid layoffs. Employers also may designate particular units within the workforce that will participate in Work Sharing when applying for the Work Sharing Program. With Work Sharing, employees who may not have otherwise been eligible for partial unemployment benefits may be able to receive some unemployment insurance benefits plus their weekly wages. To participate, employers must meet all the following requirements and apply with the EDD:

1. Be a legally registered business in California;
2. Have an active California State Employer Account Number;
3. At least 10% of the employer's regular workforce or a unit of the workforce, and a minimum of two employees, must be affected by the reduction in hours and wages;
4. Hours and wages must be reduced by at least 10% but not more than 60%;
5. Health benefits must remain the same as before, or they must meet the same standards as other employees who are not participating in Work Sharing;
6. Retirement benefits must meet the same terms and conditions as before, or they must meet the same as other employees not participating in Work Sharing;

7. The collective bargaining agent of employees in a bargaining unit must agree to voluntarily participate and sign the application for Work Sharing (if applicable);
8. Identify the affected work units to be covered by the Work Sharing plan and identify each participating employee by their full name and Social Security number;
9. Notify employees in advance of the intent to participate in the Work Sharing program;
10. Identify how many layoffs will be avoided by participating in the Work Sharing program; and
11. Provide the EDD with any necessary reports or documents relating to the Work Sharing plan.

For an employee to be eligible for the Work Sharing Program, the employee must (1) be regularly employed by an employer whose Work Sharing application has been approved by the EDD, (2) be part of the employer's permanent regular workforce, (3) have qualifying wages in the base period used to establish a regular California Unemployment Insurance claim, (4) have reduced hours and wages that are at least 10% but not more than 60%, and (5) have completed a normal workweek (with no hour or wage restrictions) before participating in Work Sharing. Leased, intermittent, seasonal, or temporary service employees cannot participate in the Work Sharing program. Employees participating in the Work Sharing Program will receive the percentage of their weekly Unemployment Insurance benefit amount equal to the percentage of the reduction in their hours and wages for that week due to Work Sharing. For example, if an employee's hours and wages are reduced 20%, they will be eligible for 20% of their weekly UI benefit amount.

When employers are considering applying for the Work Sharing program, employers will want to consider, among other things, the administrative requirements of the Work Sharing program, how to communicate about work sharing with its impacted employees, how work sharing benefits may differ from partial unemployment benefits, and how federal pandemic unemployment insurance may interact with the Work Sharing program.

Unemployment Compensation Programs Under the CARES Act

Under the CARES Act, qualified workers and individuals who would otherwise receive UI benefits under state law may be eligible for an extra \$600 weekly payment if they are totally unemployed, partially unemployed, or unable to work due to the COVID-19 pandemic under the Pandemic Unemployment Compensation (PUC) and the Pandemic Unemployment Assistance (PUA) programs. The \$600 weekly benefit amount may be available to individuals collecting regular unemployment compensation as well as individuals who are receiving assistance under Work Sharing. The supplemental \$600 payment may be provided for up to 16 weeks.

Due to COVID-19 and the unprecedented demand for UI benefits, the CARES Act provides a 13-week extension of benefits paid for by the federal government when eligible individuals exhaust their regular UI claim under the Pandemic Emergency Unemployment Compensation (PEUC) program. For further guidance, please contact your Fisher Phillips attorney or the authors of the blog post.

Related People



James J. McDonald, Jr.

Partner

949.851.2424

Email



Adam F. Sloustcher

Regional Managing Partner

214.220.8304

Email