

# ENHANCED UNEMPLOYMENT BENEFITS AVAILABLE UNDER CARES ACT

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**On March 27, 2020, President Donald Trump signed the COVID-19 Aid, Relief, and Economic Security Act or the “CARES” Act to provide emergency assistance and health care response for individuals, families and businesses affected by the 2020 COVID-19 pandemic. In part, the CARES Act will broaden the scope of employees eligible for unemployment benefits, will enhance the unemployment benefits received, and may impact an employer’s unemployment account for chargebacks.**

The following Q&A summarizes key unemployment features under the CARES Act and what employers and employees can expect:

## **What extra unemployment benefits are available to individuals under the CARES Act?**

- Qualifying individuals are entitled to normal unemployment compensation plus certain extended and additional benefits.
- The CARES Act allows qualifying individuals to receive normal unemployment compensation plus an additional \$600 per week beginning after the date on which a state enters an agreement to implement the CARES Act through July 31, 2020.
- The CARES Act provides federal funding to extend normal unemployment compensation for up to a total of 39 weeks.

- The enhanced benefits begin retroactively on January 27, 2020 and end on December 31, 2020, for up to the maximum 39 weeks.

### **Who qualifies for the extra benefits?**

- Any individual who is willing and able to work but is unable or unavailable to do so, either totally or partially, because:
  - The individual has been diagnosed with COVID-19 or is experiencing symptoms and is seeking a medical diagnosis;
  - A member of the individual's household has been diagnosed with COVID-19;
  - The individual is caring for a member of his or her household who has been diagnosed with COVID-19;
  - A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is 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 his or her place of employment because of a quarantine imposed related to COVID-19;
  - The individual is unable to reach his or her place of employment because the individual has been advised by a health care provider to self-quarantine due to COVID-19;
  - The individual was scheduled to commence employment and does not have the 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 the household has died as a direct result of COVID-19;
  - The individual's place of business closed due to COVID-19; or
  - The individual otherwise had to quit his or her job as a direct result of COVID-19.
- According to Congressional guidance, the Act will also broaden the scope of eligibility for unemployment insurance payments and makes benefits available to individuals who are self-employed, are seeking part-time employment, do not have sufficient work histories, independent contractors, gig workers (e.g., Uber and Lyft drivers), and individuals who otherwise would not qualify for regular unemployment or extended benefits.
- The enhanced benefits are available for any employee eligible for benefits. There is no distinction between salaried and hourly workers.

- The enhanced benefits apply to all companies, not just small businesses or companies under a certain employment level.
- However, if an individual is receiving paid sick leave or other paid leave benefits, then the individual is ineligible for enhanced unemployment benefits.

#### **What if an employer has locations in multiple states?**

- The enhanced unemployment benefits of the CARES Act are based on each state agency opting into the federal program, so the applicability of the enhanced benefits will be on a state-by-state basis.
- We expect all states impacted by the pandemic to opt-in.

#### **How long will it take an individual to receive the first \$600?**

- Currently, some states require applicants for unemployment benefits to wait a full week after becoming unemployed before beginning to receive benefits. The Act allows a state to waive this waiting period for benefits eligibility to commence.
- Texas has waived the one-week waiting period for benefits, which means that once an application is approved, the employee can start collecting benefits immediately.
- The Act also permits emergency state staffing flexibility for a state to engage temporary staff, rehire retirees or former employees, and other temporary actions to quickly process applications and claims.
- The Texas Workforce Commission has plans to increase its server capacity and hire additional call center staff to address the influx of unemployment applications.

#### **Will an employer's unemployment account be charged back because of the enhanced benefits under the CARES Act?**

- Typically, a company is responsible for unemployment benefit chargebacks. However, the Department of Labor has stated that the cost of the enhanced benefits under the CARES Act will be 100% federally funded and employers will not be charged for these enhanced benefits paid.
- In Texas, Section 204.022 of the Texas Labor Code may allow an employer to ask for chargeback protection because Governor Greg Abbott has declared a disaster relating to the pandemic. This provision excludes chargebacks if a federal statute, a Texas statute, or a Texas municipality ordinance required an employee's separation. So in the case of a business being closed because of a local shelter in place order, the business can apply for chargeback protection.

#### **If an employee declines to return to work based on COVID-19 concerns, can the individual continue to collect unemployment benefits, including the enhanced benefits under the CARES Act?**

- The Texas Workforce Commission ("TWC"), like most other state unemployment commissions, generally requires an individual to apply for and be able to accept a suitable job to receive benefits. If an

employee rejects a suitable job, then the individual no longer qualifies for unemployment. Temporarily, the TWC advised individuals currently receiving unemployment benefits in Texas are not required to look for work. However, once the crisis ends, the work search requirement will be reinstated and individuals must search for work and accept suitable work.

- In addition to suspending the requirement to look for work, the TWC identified the following reasons an individual may refuse suitable work and still receive benefits:
  - High Risk – individuals who are at high risk, including people 65 years or older;
  - High Risk Household Member – individuals with a household member at high risk, including people 65 years or older;
  - Diagnosed with COVID-19 – individuals who have tested positive for COVID-19 by a source authorized by the State of Texas and have not recovered;
  - Household Member Diagnosed with COVID-19 – individuals with a household member that has tested positive for COVID-19 by a source authorized by the State of Texas and has not recovered and 14 days have not yet passed;
  - Quarantined – individuals who are currently in 14-day quarantine due to close contact exposure to COVID-19; and
  - Childcare – individuals whose child's school or daycare remain closed and no alternatives are available.
- The TWC will review all other situations on a case-by-case review.

**If an employee employed by an “essential business” quits work because of fear of COVID-19, can the individual still qualify for unemployment benefits?**

- No. An employee's voluntary decision to quit his or her job out of general concern of exposure to COVID-19 does not make the employee eligible for enhanced benefits under the CARES Act.
- An employee may only be entitled to benefits due to concerns about exposure to COVID-19 if the employee has been advised by a healthcare provider to self-quarantine as a result of such concerns and the employee is not receiving other paid leave from his or her employer.
- Also keep in mind, if an employee has to leave work for COVID-19 reasons, such as becoming diagnosed with COVID-19, being ordered to self-quarantine, caring for someone who is infected with the virus, or caring for children out of school, then under the new federal paid sick leave laws, an employer with less than 500 employees may be required to pay sick leave or paid family leave benefits. For more information on the new federal COVID-19 paid leave laws, please click [here](#).

If you have questions or would like to discuss further, please contact [Alana Ackels](#) or [Sydnie Shimkus](#).

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## Practice Area Contact

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