



## **Know Your Rights: COVID-19 Unemployment Law Changes**

### **How many weeks will I receive benefits?**

As long as your employment status has *not changed*, and you are meeting the weekly requirements for eligibility--filing your weekly certification, reporting any changes to income, and fulfilling the work search requirements--most workers are eligible to receive 26 weeks of unemployment, plus an additional 13 weeks due to the pandemic. The 13 week extension, known as the Pandemic Emergency Unemployment Compensation (PEUC) program, began June 28, and people are automatically enrolled **when they exhaust their 26 weeks of state benefits**. To complete the enrollment process in PEUC, your next weekly certification will include a one-time set of questions. Once these questions are answered and the weekly certification submitted, the enrollment process will be completed. You do not need to take any other action to enroll or extend your benefits. Right now, the PEUC program is set to end on December 31, 2020, but it may be extended.

If you applied for unemployment benefits under the Pandemic Unemployment Assistance (PUA) program because you were self-employed, a gig worker, or otherwise were ineligible for regular state unemployment benefits, you can receive benefits for up to 39 weeks, so long as you continue to meet the weekly requirements for eligibility. Right now, the PUA program is set to end on December 31, 2020, but it may be extended.

Some people whose 26 weeks of regular state benefits ran out before June 28 were temporarily paid through the PUA program while implementation of the PEUC program was in process. As a result, even if you did not apply for benefits under the PUA program, you may have received paperwork referencing PUA. All eligible recipients should have been enrolled in the PEUC starting July 1.

The Maine Department of Labor has put together [this helpful chart](#) explaining the different types of benefits that you may be eligible for and the length and timing of those benefits.

***If there is an interruption to your weekly payment***, make sure you are meeting the weekly eligibility requirements listed above, and check your correspondence tab in your *Reemploy ME* account. If you are continuing to meet the weekly requirements and have not received any

correspondence regarding your benefits, you may need to contact the Department of Labor for more information.

**I lost my job during the pandemic, but I have not yet applied for benefits. Am I still eligible? How do I apply?**

Depending on your previous income, the circumstances of leaving your job, and current unemployment status, **you may be entitled to back benefits as far back as February 5, 2020** as long as your claim is **COVID-19 related**.

If you have not filed a claim yet, fill out [this form](#) from Maine Equal Justice to get a call from the Department of Labor about your situation and find out if you are eligible.

**Am I required to look for work in order to receive unemployment benefits?**

Starting **August 9, 2020**, workers who are permanently separated from their employer (i.e. cannot or do not expect to return to their former employer when it is safe to do so, including self-employed workers who do not intend to return to their self-employment) must engage in work search activities and document those activities when they file weekly claims to continue receiving unemployment. All workers in this category must create an account on the Maine JobLink: <https://joblink.maine.gov/>, a free job search website.

Workers who intend to return to work with the same employer (including self-employed workers who intend to continue self-employment) are not required to actively search for work until 30 days after Maine's Civil Emergency Declaration ends. Currently, the declaration ends September 4, 2020, which means that those workers can expect to have to actively search for work starting **October 4, 2020**. The Civil Emergency Declaration may be extended further. Check the Department of Labor website for updates.

**What counts as engaging in work search activities?**

The Maine Department of Labor has said that the following activities meet the work search requirement:

- Applying for a job for which you are reasonably qualified
- Interviewing for a job for which you are reasonably qualified
- Contacting an employer to inquire as to whether the employer is hiring
- Participating in networking events related to a job or occupation for which you are reasonably qualified
- Participating in professional job-related education or skills development

- Attending a job fair/virtual job fair hosted by a **CareerCenter**
- Participating in **CareerCenter** virtual reemployment services
- Participating in a **CareerCenter** virtual workshop

If you participate in **any** of these activities each week, you should be eligible to continue to receive benefits.

The certification form you will be asked to fill out will look like this:

WC-800

### Work Search Questionnaire

\* Required Information

Claimant SSN  Claimant Name

Address

Answer the following questions for the week of:  
**Sunday, July 26, 2020 - Saturday, August 01, 2020.**

Providing false information is punishable by law.

1. <sup>\*\*</sup> During the week claimed, did you look for work?  
(This includes applying or interviewing for a job for which you are reasonably qualified)  Yes  No

2. <sup>\*\*</sup> During the week claimed, did you participate in one of the following?  
(Participation may be in person and/or online)  Yes  No

a. If yes, please identify the activity in which you participated:

- Attended a job fair/virtual job fair hosted by a CareerCenter
- Participated in CareerCenter virtual reemployment services
- Participated in a CareerCenter virtual workshop
- Applied for a job for which you are reasonably qualified
- Interviewed for a job for which you are reasonably qualified
- Contacted an employer to inquire as to whether the employer is hiring
- Participated in a professional job-related education or skills development
- Participated in networking events related to a job or occupation for which you are reasonably qualified

3. If you answered "No" to both Question 1 and Question 2, please explain what prevented you from conducting work search activities.  
(Must not exceed 1000 characters)

**Failure to actively look for work as directed by MDOL may result in the denial of benefits for the week claimed.**

If you applied for or interviewed for a job, or otherwise searched for work (i.e. by contacting a prospective employer to ask about a job, etc.), you should answer “yes” to the first question and answer “yes” to the second question and indicate which activity you did. If you did not apply for or interview for a job, but you participated in any of the other professional or skill development activities listed, you should answer “no” to the first question, but answer “yes” to the second question and indicate in which activity you participated.

**What if I am required to look for work to keep my benefits, but cannot because myself or a family member/ household member is part of an at risk group and can't risk being exposed to COVID-19?**

Simply put, if the work search requirement applies to you and you do not document your work search, you may lose your benefits. As described above, there are many options for meeting the work search requirements that can be done from your home without risking exposure to COVID-19, including searching for work online, attending virtual networking events, and even calling potential employers on the phone. The DOL sees these options as sufficient to address concerns about exposure to COVID-19 and is unlikely to grant exceptions to the work search requirement due to risk of exposure to COVID-19 alone.

However, the third question on the certification form pictured above allows you to explain why you did not look for work. The Department of Labor will examine these answers on a case-by-case basis and determine whether you are still eligible to receive benefits even though you have not completed the work search requirement. If you cannot do any of the activities listed above to complete the work search requirement, you should truthfully fill out the box in question 3 and provide as much detail as possible about your situation. At this time, there is no guidance regarding what reasons may be sufficient to merit an exemption from the work search requirement or how frequently such exemptions will be granted.

Additionally, if you are pregnant or have a disability as defined by the Americans with Disabilities Act (ADA) or the Maine Human Rights Act (MHRA), you may be entitled to accommodations while applying for jobs, such as assistance filling out a written job application or participating in an interview via videoconference or over the phone instead of in person. You may request those accommodations from the individual employer. If you speak a language other than English, you may also be entitled to accommodations in the application process for positions where speaking English is not a requirement of the job. You should inquire about such accommodations from individual employers.

**What if my employer asks me to return to work, but I am unable to do so due to concerns related to COVID-19?**

In general, you cannot receive unemployment benefits if you refuse an offer to return to work. But you may still be eligible for benefits if there was “good cause” for your refusal, a determination that is made on a case-by-case basis. If you or your employer notifies the Department of Labor of your refusal, there will be a fact-finding interview to determine whether there was “good cause.” Good cause could include reasons like having COVID-19, being advised by a doctor or public health official to quarantine because of possible exposure to

COVID-19, or documenting that your employer has failed to take steps to minimize COVID-19 exposure. You may also be able to show “good cause” for refusing to return to work if you are the primary caregiver of a child who has not returned to in-person schooling, although the Department of Labor has not indicated whether that will be considered “good cause.” All of this will be determined on a case by case basis, and it is always worthwhile to continue to file your weekly claims and explain your refusal.

If you are pregnant or have a disability as defined by the ADA or the MHRA and your employer asks you to return to work, you may be entitled to reasonable accommodations, such as working from home or working in an environment that minimizes your exposure to COVID-19. If you ask for a reasonable accommodation and are denied without good reason, you may have both “good cause” for refusing the offer to return to work and a potential separate legal claim against your employer for denying you the accommodation. It is also illegal for your employer to retaliate against you because you request an accommodation. If you are denied an accommodation or experience retaliation, you should contact an employment lawyer.

**What if I am offered a job, but I cannot start the job due to concerns about exposure to COVID-19 or because I need to care for a child or other family member?**

In general, you are no longer eligible for unemployment if you refuse a “suitable” job offer. However, you can still be eligible for unemployment if you show that the job was not “suitable” or if you show that you had “good cause” for refusing a “suitable” job. The Department of Labor has said that it will look at a number of factors in making the suitability determination, including your prior earnings, the risk to your health and safety, your physical fitness to do the job, length of unemployment (under or over 10 weeks) and prospects for finding similar work to the job you held before, and the distance of available work from your residence. As described above, the factors the Department of Labor has said it will consider to determine whether you had “good cause” to refuse a job offer include having COVID-19, being advised by a doctor or public health official to quarantine because of possible exposure to COVID-19, or documenting that your employer has failed to take steps to minimize COVID-19 exposure. As a result, if the job presents a risk to your health and safety due to COVID-19, you may be able to show either that it was not “suitable” or that you had “good cause” to refuse the offer. Again, although the Department of Labor has not said whether it would take caregiving responsibilities into account in the “good cause” analysis, you may be able to argue that you have “good cause” because you are the primary caregiver of a child or family member.

**I am self-employed or a gig worker and have been receiving the minimum weekly benefit. How do I know if I am eligible for a higher benefit? How do I submit proof of income?**

If your net income (for self-employed workers) or gross wages (for gig workers) in 2019 was below \$15,224, you do not have to upload your income information and will continue receiving the minimum benefit of \$172 per week. If your earnings were higher than that in 2019, you are eligible for retroactive benefits up to a maximum benefit of \$445 (claims filed before June 1) or \$462 (claims filed after June 1) per week. You may receive those benefits automatically if the Department of Labor is able to match your tax information with your claim.

Beginning Aug 4, 2020, if your information was not automatically matched, you may submit your 2019 tax information to prove your earnings. Instructions for how to upload your tax documents can be found [here](#).

**If I am receiving unemployment benefits, and I am working part time or earning money from gig work, How do I fill out my weekly claim?**

In general, you cannot receive unemployment benefits if you are being paid to work. However, you may still be entitled to benefits if your hours or earnings are significantly reduced due to COVID-19. When you file your weekly claim, **report your gross income the week that it is earned**, even if you have not yet been paid and regardless of the source of the income. Your benefits may be adjusted or reduced accordingly. If your income fluctuates, continue to report your gross earnings, and you should still receive benefits on the weeks you report less than \$450/week in gross income.

**Information on Overpayments due to error or appeal reversal:**

An overpayment occurs when you receive unemployment benefits for which you are subsequently found to be ineligible. Typically there will be a fact-finding inquiry followed by a Deputy's Decision which denies all or part of the benefits you have already received. If you have been paid benefits that you should not have received you may be required to repay them, even if the overpayment is the fault of the Department of Labor (agency error).

If you receive notice of a fact finding interview after you have returned to work **it is very important to participate**. If it is at a time you cannot participate you can request that the fact-finding be rescheduled.

**What should I do?**

**You have the right to an appeal**, and can do so more than once. The adjudicator who determined that you were overpaid benefits might be wrong and appealing the decision is your

chance to make your argument to an Appeals Officer. You can contact Maine Volunteer Lawyers Project or Pine Tree Legal Assistance for legal advice and/or representation.

### **How do I file an appeal?**

#### **You will need the following information:**

1. Deputy's Decision Number
2. Claimant's Social Security Number
3. Benefit Year Ending (BYE)

#### **File your appeal in one of these ways:**

1. Online by using the ReEmployME system
2. By email at Admin.Hearings@Maine.gov
3. By calling 1-207-621-5001
4. By fax at 207-287-5949.

### **What if I did not appeal, or if my appeal was denied?**

If you accept the first denial, or if the denial is affirmed on appeal, you may be required to pay back benefits you received in error.

If you received state-funded unemployment, and you are financially unable to repay those benefits in full, you may request a **waiver of the overpayment**. If the overpayment was established by a Division of Administrative Hearing Officer or the Unemployment Insurance Commission, you may apply for a waiver from the Commission.

**IMPORTANT: Overpayments of federally-funded benefits (PUA, PEUC, PUC) cannot be waived.**

Your request for Waiver of Overpayment must be in writing and mailed to the Unemployment Insurance Commission. Upon request, the Commission may grant a hearing. If you do not request a hearing, the Commission will make a decision based upon a review of the record, and/or any other information the Commission may request from the claimant.

#### **Please send Requests for Waiver of Overpayment to:**

Unemployment Insurance Commission  
57 State House Station  
Augusta, ME 04333-0057  
Phone: (207) 623-6786

## **How do I avoid ending up with an overpayment?**

There is no way to guarantee that a mistake won't be made, but here are some ways to lower your likelihood of an overpayment:

1. Check your correspondence tab regularly.
2. Accurately report your weekly GROSS earnings in the week they are earned. Gross earnings include taxes and other deductions from your paycheck and are larger than the payroll amount that is deposited in your bank account.
3. If you are self-employed, an independent contractor, or receiving PUA, or if DOL asks for documentation of your income, make sure you provide all the documentation requested by the DOL for proof of your income.
4. If you were surprised by the amount you are receiving, or see any inconsistencies in your payment, contact the DOL as soon as possible to make sure there has not been an error.