

Webinar Topics:

- ▶ Current state of unemployment (UI)
- ▶ “Regular” UI benefits
- ▶ New federal UI programs under CARES
- ▶ Challenges in accessing benefits
- ▶ Expected future changes to UI
- ▶ Paid sick leave, expanded FMLA
- ▶ UI Resources

Current State of UI in New Jersey

NJ Labor Department: New Unemployment Claims Surpass 500K for Three Weeks Since Pandemic Gripped NJ

FOR IMMEDIATE RELEASE

April 9, 2020

TRENTON – Nearly 215,000 workers applied for unemployment during the week that ended Saturday, raising the number of new jobless claims to 576,904 for three weeks starting March 15. The weekly totals of new unemployment claims for each of the past five weeks are as follows:

March 1 - 7	7,996
March 8 -14	9,467
March 15 - 21	155,815
March 22 - 28	206,253
March 29 - April 4	214,836*

https://www.nj.gov/labor/lwdhome/press/2020/20200409_500kclaims.shtml

From www.nj.dol.gov:

UPDATED: Schedule for claiming/certifying for benefits



SCHEDULE UPDATE: WEEK OF SUNDAY, APRIL 12

Sunday, Monday, and Tuesday have their own schedules, noted below.

For Wednesday through Saturday, all SSNs can certify on any day, following the "rest of week" schedule below.

We know this might seem confusing, but it is necessary to ensure the continued stability of our online applications.

Before you claim your benefit, you must read our [step-by-step guide to certifying a COVID-19-related Unemployment Insurance claim](#).

*(If you are filing a **new** claim or reopening an existing claim, you can do so online anytime.)*

SUNDAY: SSNs ending in 0000 - 3333

If the last 4 digits of your Social Security Number are between:

0000 and 0833 certify between **8am and 10am**

0834 and 1666 certify between **10am and 12pm**

1667 and 2098 certify between **12pm and 1pm**

2099 and 2530 certify between **1pm and 2pm**

“Regular” Unemployment benefits

- ▶ “Regular” UI still available
- ▶ Eligibility: 20 weeks @ \$200+ per week or earned \$10,000 in base year
- ▶ Weekly benefits:
 - ▶ 60% of average earnings, max of \$713 per week
 - ▶ Partial benefits for 20% (or greater) reduction in hours
 - ▶ 26 weeks max
- ▶ Apply online at www.nj.gov/labor
 - ▶ Straightforward layoffs - should be processed quickly
 - ▶ Terminations, voluntary quits, etc. - may experience some delay

Weekly Certification for Benefits

- ▶ To claim benefits, the claimant must be:
 - ▶ Able to work
 - ▶ Available for work
 - ▶ Actively searching for work
 - ▶ Usually 3 job “contacts” per week, BUT
 - ▶ CARES Act: “a State shall provide flexibility in meeting such [work search] requirements in case of individuals unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.”
 - ▶ Temporary suspension in NJ

Voluntary Resignations

- ▶ Voluntary resignation = disqualification from benefits UNLESS the resignation is with “good cause attributable to the work” (FACT-SPECIFIC ANALYSIS REQUIRED)
 - ▶ COVID-19-related examples of “good cause attributable to the work”
 - ▶ Unsafe/unlawful working conditions (OSHA guidance, Executive Orders, etc.)
 - ▶ Unlawful retaliation:
 - ▶ Whistleblowing
 - ▶ Concerted Activity under the National Labor Relations Act (NLRA)
 - ▶ Workers Comp. - retaliation for filing complaint
 - ▶ Denial of legitimate leave request or reasonable accommodation
 - ▶ Misclassification of “essential” v. “non-essential” employees
 - ▶ Report violations at: <https://covid19.nj.gov/violation>

Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

- ▶ Signed into law on March 27, 2020
- ▶ Nearly \$2 trillion economic stimulus package
- ▶ Estimated \$260 billion in expanded unemployment insurance
- ▶ 3 new unemployment programs:
 - ▶ Pandemic Unemployment Compensation
 - ▶ Pandemic Unemployment Assistance
 - ▶ Pandemic Emergency Unemployment Compensation
 - ▶ All 3 funded 100% by federal gov't, administered by state DOL

Federal Pandemic Unemployment Compensation (PUC)

- ▶ w/e March 29, 2020 to w/e July 25, 2020
- ▶ \$600 flat amount to everyone getting unemployment benefits:
 - ▶ “Regular” UI, PUA, partial UI/PUA, PEUC (but not ABT)
- ▶ No separate application
- ▶ Automatic payment (payment is separate from regular UI or PUA)
 - ▶ First payment - week of April 14, 2020
- ▶ Does not affect eligibility for Medicaid or Children’s Health Insurance Program
- ▶ No recoupment of PUC benefits for overpayments

Pandemic Unemployment Assistance (PUA)

- ▶ January 27, 2020 to December 31, 2020 (possible retroactive benefits)
- ▶ Max of 39 weeks, paid weekly
- ▶ Weekly benefit rate = minimum ~\$200/week, max \$713
 - ▶ Partial PUA available
- ▶ For workers unemployed (or under-employed) due to COVID-19 and ineligible for regular UI:
 - ▶ self-employed
 - ▶ independent contractors
 - ▶ “gig” economy employees (*should be eligible for regular UI)
 - ▶ people unable to start a new job due to the pandemic
 - ▶ people who are otherwise not eligible for regular unemployment benefits (like insufficient base year earnings)

PUA, continued

- ▶ Applicants must self-certify that they are (1) partially or fully unemployed, OR (2) unable and unavailable to work because of one of the following circumstances:
 - ▶ They have been diagnosed with COVID-19 or have symptoms and are seeking diagnosis;
 - ▶ A member of their household has been diagnosed with COVID-19;
 - ▶ They are providing care for someone diagnosed with COVID-19;
 - ▶ They are providing care for a child or other household member who can't attend school or work because it is closed due to COVID-19;
 - ▶ They are quarantined or have been advised by a health care provider to self-quarantine;
 - ▶ They were scheduled to start employment and do not have a job or cannot reach their place of employment as a result of a COVID-19 outbreak;
 - ▶ They have become the breadwinner for a household because the head of household has died as a direct result of COVID-19;
 - ▶ They had to quit their job as a direct result of COVID-19;
 - ▶ Their place of employment is closed as a direct result of COVID-19; or
 - ▶ They meet other criteria established by the Secretary of Labor.

<https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/>

NOT covered by PUA

- ▶ People working from home
- ▶ People on paid leave
- ▶ People who lose a part-time job but still have a full-time job
- ▶ People w/o valid work authorization (same as UI)

PUA Application Process

- ▶ Same UI application - have to be denied regular UI first
- ▶ Some additional requirements:
 - ▶ 30-day filing deadline (benefits potentially retro. to January 27, 2020)
 - ▶ Certification of employment/self-employment
 - ▶ Request for documentation (tax returns or further affidavits)
 - ▶ Details of the documentation requirements TBD

Pandemic Emergency Unemployment Compensation (PEUC)

- ▶ w/e April 5, 2020 to December 31, 2020
- ▶ Additional 13 weeks of unemployment benefits
 - ▶ Regular UI claimants now eligible for 39 weeks instead of 26 weeks
- ▶ Application uncertain - check NJDOL website for updates
- ▶ Available to those who exhausted benefits after 7/1/19
 - ▶ States have to notify those who may be eligible
 - ▶ Claimants will get PEUC first, then (potentially) PUA
- ▶ Still have to meet eligibility criteria (with some flexibility)

PUA, PUC, PEUC Implementation Challenges

- ▶ Available resources in NJDOL inadequate to address current UI surge
- ▶ Technology challenges
- ▶ Difficult to reach help
 - ▶ *Best advice: document efforts to resolve! (send an email through NJDOL site)
 - ▶ This will improve
- ▶ Limited language assistance
- ▶ Lack of streamlined process for people w/o reported wages

Workshare (“short-time UI”) Program

- ▶ CARES provides state NJDOLs with additional funds
- ▶ NJ’s Workshare program in place since 2014
- ▶ Agreement between employers w/10 or more employees and NJDOL
- ▶ Program keeps employees employed while employers reduce employees’ hours to save the business
- ▶ Better than partial UI
 - ▶ Workers are employed, paid close to or at 100% (w/UI payments)
 - ▶ Workers keep benefits
 - ▶ Employers’ businesses stay open during difficult times
 - ▶ But no \$600 supplement

https://careerconnections.nj.gov/careerconnections/resources/sharedwork/shared_work_program.shtml

NJ Earned Sick Leave

- ▶ Employers of all sizes must provide employees with up to 40 hours a year of paid sick leave per year
 - ▶ full-time, part-time or temporary workers (*regardless of immigration status)
 - ▶ 1 hour of earned sick leave for every 30 hours worked (ER can also give 40 hours up front)
 - ▶ Up to 40 hours of unused sick time can be carried over to the next year, but ER doesn't have to allow more than 40 hours of leave per year
- ▶ for employee's own illness or to care for a sick family member (broad definition)
 - ▶ ER can request medical documentation after 3 days
- ▶ Also covers taking off due to school closes because of a public health emergency
- ▶ Enforced by NJDOL, Wage and Hour
- ▶ More information at: <https://www.nj.gov/labor/worker-protections/earned-sick/>.

Federal Paid Sick Leave

- ▶ For those who work for private employers with less than 500 employees (and certain public employers)
- ▶ Available even if worker already used up FMLA leave
- ▶ supplements any paid sick leave that an employer already offers
- ▶ Employee is ill or quarantined by dr. or gov't order:
 - ▶ eligible for up to two weeks (80 hours) of paid sick leave at the employee's regular rate of pay (up to a maximum of \$511 per day)
 - ▶ No intermittent leave - stay home!
- ▶ Employee cannot work because she is caring for someone with COVID-19 or a child whose school/day care is closed:
 - ▶ Eligible for up to two weeks (80 hours) of paid sick leave at 2/3 the regular rate of pay (up to a maximum of \$200 per day)
 - ▶ Leave may be intermittent if ER and EE agree
 - ▶ NOTE: Employers with less than 50 employees may seek an exemption from these *child-care related* provisions of PSL or expanded FMLA.

Expanded Federal Family and Medical Leave Act (Emergency Childcare FMLA)

- ▶ For workers caring for child out of school/day care
 - ▶ Must have been on payroll for at least 30 days prior to leave
- ▶ Up to 10 additional weeks of partially paid leave
 - ▶ 2/3 of the employee's regular rate of pay, up to a maximum of \$200 per day/\$10,000 max
- ▶ Leave may be intermittent if employer and employee agree
- ▶ Not available if worker already exhausted FMLA leave
- ▶ NOTE: Employers with less than 50 employees may seek an exemption from these *child-care related* provisions of PSL or expanded FMLA

Federal Paid Sick Leave and Expanded FMLA, continued

- ▶ April 1, 2020 to December 31, 2020
 - ▶ If leave was before April 1, 2020, doesn't apply
 - ▶ If employer closed after April 1, 2020, doesn't apply
 - ▶ Doesn't carry over, no reimbursement if not used
- ▶ 100% tax credit for employers
- ▶ Employer can't require to use other leave first
- ▶ 6 month lookback to determine rate of pay
- ▶ "Child" = 18 yrs. or younger

Snapshot: Families First Coronavirus Response Act Emergency Paid Leaves

Reason for emergency leave	Emergency Paid Sick Leave / 80 hours	Emergency Childcare FMLA / 12 Weeks**	Wage employer pays employee***	Maximum per day
To care for self due to quarantine, illness or symptoms	✓	✗	Full wages	\$511
To care for loved one in case of coronavirus quarantine, illness, or symptoms	✓	✗	2/3 wages	\$200
To care for son/daughter due to lack of school or child care	✓	✓	2/3 wages	\$200

* The U.S. Department of Labor may grant exemptions to employers with less than 50 employees whose business is jeopardized by providing the leave.

** First two weeks may be unpaid.

*** Wages are defined as the employee's regular rate of pay, the federal minimum wage, or the state or local minimum wage where they are employed, whichever is greater. New Jersey's minimum wage is \$11/hour as of January 1, 2020.



What NJ Workers Need to Know About the Families First Coronavirus Response Act

Overview: Emergency Paid Sick Leave and Expanded Family & Medical Leave

The federal *Families First Coronavirus Response Act* takes effect April 1, 2020 and gives certain workers access to emergency paid leave to care for themselves or a loved one, or to care for their children at home, due to coronavirus.

The law requires employers to provide two types of leave: Emergency Paid Sick Leave and Emergency Childcare Leave.

- **Emergency Paid Sick Leave:** 80 hours (up to two weeks) of paid leave for employees to care for themselves or a loved one for coronavirus quarantine (ordered by a public health official or recommended by a health-care provider), illness, or symptoms (seeking a medical diagnoses); or, the school/child care closure of the employee's son or daughter
- **Emergency Childcare Leave:** 12 weeks of job-protected leave for employees (the first two weeks unpaid; the remaining 10 weeks paid), under the Family & Medical Leave Act (FMLA), to care for their children if their school or child care is closed, or their child care provider is unavailable, due to coronavirus

Private employers with less than 500 employees and most government employers are required to pay their employees for these two different emergency paid leaves. Exemptions and opt-out provisions can be reviewed at the USDOL website.*

Both leaves expire on December 31, 2020.

COVID-19 SCENARIOS & BENEFITS AVAILABLE

Worker needs time to care for others		PAID SICK TIME				After or Instead of	NJ Law: Family Leave Insurance myleavebenefits.nj.gov		
		Federal Emergency Law: Childcare FMLA* dol.gov	Federal Emergency Law: Paid Sick Leave* dol.gov	NJ Law: Earned Sick Leave mysickdays.nj.gov	Unemployment Insurance myunemployment.nj.gov				
1	Employee unable to work because must care for child(ren) at home due to coronavirus closure	✓	✓	✓	✓	➔➔➔➔	✓		
2	Worker is caring for family member who is diagnosed, or in isolation or quarantine with suspicion of exposure		✓	✓	✓	➔➔➔➔	✓		
Worker is sick or loses work		Federal Emergency Law: Paid Sick Leave* dol.gov	NJ Law: Earned Sick Leave mysickdays.nj.gov	Unemployment Insurance myunemployment.nj.gov	After or Instead of	NJ Law: Temporary Disability Insurance myleavebenefits.nj.gov			
		3	4	5		6	7	8	9
3	Worker who has COVID-19, or symptoms of COVID-19	✓	✓	✓	➔➔➔➔	✓			
4	Person who is out of work because employer voluntarily closed	✗	✗	✓		✗			
5	Person who is out of work because employer was ordered closed	✗	✓	✓		✗			
6	Worker has less hours available due to business slow down or lack of demand	✗	✗	✓		✗			
7	Employer stays open in defiance of State closure or public health order, and worker refuses to work	✗	✓	?		✗			
8	Employer permitted to be open, but worker is afraid of gathering in a group and refuses to work (self-distancing)	✗	✓	✗		?			
9	Worker is advised by healthcare provider or public health authority to quarantine	✓	✓	✓	➔➔➔➔	✓			
10	Health care provider exposed at work and recommended by medical professional to self-quarantine	?	✓	✓	➔➔➔➔	✓			
11	Freelance, independent contractor or "gig" worker has no work or lost hours due to public health emergency	✗	✗	✓		✗			
12	Worker received 26 weeks of unemployment; worker remains unemployed	✗	✗	✓		✗			

✓ YES |
 ✗ NO |
 ? MAYBE (PLEASE APPLY; EVALUATED CASE BY CASE)



NJ.GOV/LABOR

LAST UPDATED: 3.30.2020

Employer pays sick leave and childcare FMLA; others require application to the State. You cannot receive pay or benefits from more than one program/law at the same time.

* Effective April 1, 2020: New federal law requires covered employers to provide emergency paid sick leave to certain employees to care for themselves or a family member due to coronavirus illness, symptoms, quarantine or school/child care closure. The Federal Family and Medical Leave Act (FMLA) has also been amended to provide job-protected emergency paid leave to employees who are unable to work because their child does not have school or child care, due to coronavirus. See nj.gov/labor for details. The U.S. Department of Labor will be issuing further guidance and this document may be updated as more information becomes available.

A person who has, because of their employment, contracted COVID-19 at work could be eligible for **Workers' Compensation** and would file through their employer.

The information on this flyer is meant to give a general picture of benefits and rights available in certain COVID-19 work-related situations. Documentation may be required.

Resources:

- ▶ NJDOL: <https://www.nj.gov/labor/>
- ▶ FFCRA - <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- ▶ OSHA whistleblowing provisions - <https://www.whistleblowers.gov/>
- ▶ The Century Foundation: <https://tcf.org/topics/economy-jobs/social-insurance/>
- ▶ National Employment Law Project: <https://www.nelp.org/>
- ▶ Information about paid sick leave and expanded Family and Medical Leave Act leave: <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave> and <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- ▶ U.S. Dept. of Labor - www.dol.gov