



UNEMPLOYMENT BENEFITS DURING COVID: MA ACCESS TO JUSTICE COMMISSION

Dedicated to the Memory of Brian Flynn
July 19, 2021

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REGULAR UI BENEFITS

- Lasts 26 weeks (or less based on formula, or longer if working part-time)
- Weekly benefit amount (WBA) is $\frac{1}{2}$ of weekly wages up to \$855 + \$25 per week dependent allowance for each child up to 50% of WBA
- At the end of your **benefit year** (52 weeks after you first applied), you **must reapply** even if you had no earnings in order to get additional benefits.
- Administered by Department of Unemployment Assistance (DUA) & U.S. Dept. of Labor
- Apply online, <https://unemployment.mass.gov/>, (English Spanish Haitian Creole, Portuguese, Vietnamese, and Chinese) or 877-626-6800 (Multilingual)
 - Note: UI Online portal is only available in English
- See <https://www.mass.gov/info-details/what-you-need-to-apply-for-unemployment-benefits>

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ELIGIBILITY FOR REGULAR UI: REQUIREMENTS

Apply for regular UI if:

- You earned **\$5,400** in gross W2 wages if applied in 2021 and **\$5,100** if applied in 2020 -- must apply for UI with these earnings even if > 1099 earnings
- You lost or left work through “no fault” such as a quit caused by employer or an urgent personal reason, or a discharge with no deliberate misconduct or no intentional rule violation.
- COVID-related reasons include:
 - No full-time child-care or elder care
 - You were laid off from your job or you have no work
 - You have been quarantined due to COVID-19

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NON-CITIZEN ELIGIBILITY (I)

- Non-citizens must have work authorization and valid SS# to apply. ITINs (that can be used to pay taxes) cannot be used to apply for UI.
- Different requirements during “base period” – i.e., while working and during the “benefit year” – i.e., while collecting
- **Base period:** 3 categories of eligibility:
 - 1) lawfully admitted for permanent residence at time of work; or
 - 2) lawfully present to work; or
 - 3) PRUCOL – permanently residing under color of law (you have made yourself known to ICE and ICE has not taken steps to deport you)

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NON-CITIZEN ELIGIBILITY (2)

- **Benefit year:**
- Must provide same documents as I-9 for employment (identity and work authorization)
- Documents are verified through the Systematic Alien Verification of Entitlement (SAVE) – called “primary verification”
- If problem with verification - DUA sends photocopies of documents to ICE “secondary verification”
- Benefits must be paid during verification.

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IDENTITY VERIFICATION FOR REGULAR UI CLAIMS DUA IS USING ID.ME TO VERIFY THE ID OF REGULAR UI CLAIMANTS (NOT PUA)(1)

- **Instructions** for setting up an ID.me account are available in the ID.me user guide at: https://learn.id.me/rs/801-JLS-289/images/ID.me-Unemployment-Benefits_User-Guide-LOA3.pdf
- **Need:**
 - phone number, email address, and SSN;
 - photos of **front and back** of government issued photo ID
- **Instructions provide 8 Steps to follow.**

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WHAT FEDERAL BENEFITS CAN I GET WHEN MY REGULAR UI BENEFITS ARE USED UP DURING THE PANDEMIC?

1. **53 weeks** under Pandemic Emergency Unemployment Compensation (**PEUC**).
2. When PEUC used up, you *may* be eligible for up to 13 to 20 weeks under permanent state/federal Extended Benefits (**EB**) during high unemployment --- currently 13 weeks and ended on 7/17/2021.
3. If PEUC and EB used up **AND** you have COVID-19 related reason, you can get Pandemic Unemployment Assistance (**PUA**) for **79 weeks**. (minus weeks on regular UI and EB).
 - The additional weeks of **PEUC** and/or **PUA** last until **9/4/2021** and the last 29 weeks of these benefits can only be claimed after 3/13/2021.
 - On **9/4/21, PUA and PEUC will end**, even if claimants have not used the maximum weeks of PUA and PEUC available, **except if owed retroactive \$\$**.

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WHAT HAPPENS AT THE END OF MY BENEFIT YEAR ON REGULAR UI?

- When your benefit year ends (52 weeks after you applied for regular UI), you **must reapply** even if you did not work in the past year to get other benefits.
- If you worked in the past year, DUA will recalculate your weekly benefit amount (WBA).
- If your new WBA is lower by at least \$25 and your benefit year ended **after 12/27/2020**, you can stay at the higher WBA while getting extended benefits under Pandemic Emergency Unemployment Compensation (PEUC) until 9/4.
- You cannot get the higher WBA if you were getting regular UI or federal Extended Benefits (EB) when your benefit year ended.
- After 9/4, if you still had regular UI benefits left on your claim after the end of your benefit year, you can then go back to collecting regular UI.

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PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA): WHO IS ELIGIBLE (1)

You must be unemployed for a reason **directly related to COVID**.
Three groups of workers are covered:

Group #1 non-traditional workers who usually don't get regular UI:

- self-employed
- independent contractors
- gig workers & free lance workers, Americorps, Peace Corps
- clergy & workers for religious institutions
- full time college or high school students who lost part-time job due to pandemic.

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PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA): WHO IS ELIGIBLE (2)

Group #2 earned W2 income:

- used up all other state or federal benefits, or
- didn't earn enough (\$5,400/\$5,100) or work long enough to get regular UI, or
- got denied regular UI. If you are denied regular UI, you can appeal denial OR you can apply for PUA **IF** you have a COVID-related reason for being out of work.

Group #3 reasons if didn't have any work history:

- have become the breadwinner or major support for household because head of household died from COVID, or
- job offer withdrawn because of COVID.

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REASONS YOU ARE ELIGIBLE FOR PUA (1)

- Worker must “self-certify” each week that although able and available to work, worker cannot for any of the following reasons **related to COVID-19** (the reasons can differ from week to week):
 - Diagnosed with or having symptoms of COVID-19
 - Member of household diagnosed with COVID-19
 - Providing care for household or family member with COVID-19
 - Child or other care recipient out of school or care due to COVID-19
 - Can't reach place of work due to COVID-19

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REASONS YOU ARE ELIGIBLE FOR PUA (2)

- **Self-employed or independent contractor whose work has been severely limited due to COVID-19**
 - Workplace closed due to COVID-19
 - Quit job, laid off or hours reduced as direct result of COVID-19
- New reasons added in 2021 and retroactive to beginning:
 - Refused to return to work that is unsafe or accept offer of new work that is unsafe due to COVID-19
 - School worker unemployed or partially unemployed because of volatility in work schedule directly caused by COVID-19 including changes in schedule and partial closures
 - None of the above. (This new reason cannot be the basis of an automatic denial).

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PUA: BENEFITS, RIGHTS & END DATE

- Minimum benefit is \$267/week up to 79 weeks (minus weeks of regular UI and EB) until 9/4/2021
- To increase \$267/week to higher amount, provide proof of earnings or self-employment (W2 and 1099) during prior tax year – can get up to \$855 + DA
- **Important rights:** Right to **appeal** if DUA disagrees that you are eligible and right to **waive overpayment** if it wasn't your fault
- Apply at <https://ui-cares-act.mass.gov/PUA> or call 877-626-6800 (multilingual).
- PUA ends on 9/4/2021. DUA will take new applications seeking back benefits payable through 9/4/2021 until 10/4/2021.

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DISQUALIFICATIONS FROM PUA AND FILING APPEALS (I)

- Claimants may receive disqualifications for the following issues:
 - Identity verification
 - Note: PUA does not use ID.me like regular UI
 - ID verification done through fact finding link through PUA account; see [DUA instructions](#)
 - Work authorization verification for non-citizens
 - Full-time work
 - If earnings equal or exceed 133% of WBA, not eligible for PUA
 - COVID-19 Eligibility
 - Employment Substantiation

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DISQUALIFICATIONS FROM PUA AND FILING APPEALS (2)

- Appeals can be filed through the PUA online account (“More...” > “Appeals” > copy and paste corresponding letter id from notice of disqualification)
 - 30 days to file an appeal; late appeal beyond 30 days, see [430 CMR 4.15](#)
- Advocates may request a redetermination from PUA Constituent Services on behalf of claimants, puaconstituentservices@state.ma.us
- Once hearing scheduled:
 - Additional documentation can be uploaded through the PUA account
 - DUA will review additional documentation to see if the disqualification can be redetermined
 - Appeal case folder available once hearing scheduled; also review “Submissions” section of online account
- Hearing with Review Examiner, single-party hearings
 - RE should be crediting claimant’s testimony
 - RE should address questions re admitting exhibits to advocate
 - RE should not swear in advocates

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COVID-19 ELIGIBILITY HEARINGS

- Is the claimant a covered individual?
 - (i) not eligible for regular UI
 - (ii) satisfies self-certification that worked in MA or pending offer of work in MA directly affected by COVID-19
 - (iii) but for COVID-19, able and available for work
- Documentation/evidence
 - Proof of employment or pending offer of employment in MA (e.g., paystubs, W2/1099, email or letter from employer, affidavit from employer)
 - Proof of COVID-19 impact (e.g., letter of school or business closure, affidavit from employer)
 - If quit because of fear of COVID-19 due to underlying medical condition of claimant or family/household member, documentation supporting diagnosis from healthcare provider

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EMPLOYMENT SUBSTANTIATION: NEW RULE FOR PUA ELIGIBILITY (1)

- Will be charged with overpayment for PUA payments received after 12/27/2020 if don't provide proof of earnings/self-employment or withdrawal of job offer in the tax year before applied
- Note: if you provided documentation to increase your WBA, you should have received a notice that you satisfied the employment substantiation requirement
- July 1, 2021 was DUA deadline to provide the necessary proof (if claiming retroactive PUA after 9/4/2021, must provide documentation within 21 days (plus an additional 21 days as long as request extension before end of first 21 days)).

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EMPLOYMENT SUBSTANTIATION: NEW RULE FOR PUA ELIGIBILITY (2)

- **Proof of employment:**
 - Paycheck stubs & earnings, leave statements, W2 forms when available
 - Must include the employer's name and address
 - Some employers not registered with Secretary of State, e.g., sole proprietors so need other proof (e.g., Accurant, other public records including business website and YELP reviews, google, license)
- **Proof of self-employment:**
 - State or Federal employer ID numbers (EIN or FEIN), business licenses, tax returns, business receipts, affidavits from individuals verifying self-employment
 - If planned self-employment: also include business plans, business license, lease agreement

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EMPLOYMENT SUBSTANTIATION: NEW RULE FOR PUA ELIGIBILITY (3)

- **Proof of job offer withdrawn due to pandemic:**
 - Letters/email offers, affidavits (w/ name & contact info, and statement under oath that the information is true)
- **Proof of employment/job withdrawal in casual labor**
 - For cash-based work, can submit your own affidavit & affidavit from 3rd party

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EMPLOYMENT SUBSTANTIATION: NEW RULE FOR PUA ELIGIBILITY (4)

- Period of time during which must substantiate employment:
 - Between start of applicable tax year (the completed calendar year before applying) and the application date
 - E.g., if applied 12/27/2020, applicable tax year is 2019: between 1/1/2019 and 12/27/2020
 - E.g., if applied 1/3/2021, applicable tax year is 2020: between 1/1/2020 and 1/3/2021
 - Proof needed is simply a snapshot in time during relevant period
- Failure to comply:
 - Will result in an overpayment for payments made after 12/27/2020 if no proof or if missed 7/1/2021 deadline
 - Can **appeal** denial, and can seek a **waiver** of overpayment

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MIXED EARNER UNEMPLOYMENT COMPENSATION (MEUC)

- To apply for MEUC, go to <https://ui-cares-act.mass.gov/PUA>
- Extra \$100 a week retroactive to week ending 1/2/2021 to 9/4/2021
- Available for workers who qualify for UI due to W2 earnings who also had income from self-employment or gig work
- Must be getting at least \$1.00 UI (not PUA) and have earned \$5,000 in net income from self-employment or gig work in the “applicable tax year” (ATY)
- For regular UI, the ATY is the year before date of claim
- For PEUC or EB, the ATY is the year before the original regular UI claim

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WHAT EXTRA UI BENEFITS ARE AVAILABLE DURING THE PANDEMIC?

- **BEFORE** - \$600/week Federal Pandemic Unemployment Compensation (FPUC) from 3/29/2020 to 7/25/2020 (back benefits available)
- \$300/week Lost Wages Assistance (LWA) from 7/26/2020 to 9/5/2020 (no more \$\$ for any back benefits, as paid through FEMA).
- **FROM 12/27/2020 TO 9/4/2021:**
 - \$300/week FPUC for everyone getting unemployment. Does not count for SNAP. (Back benefits available)
 - \$100/week Mixed Earner Unemployment Compensation (MEUC) (back benefits available)
- **Federal benefits, including PUA, PEUC, FPUC, & MEUC end 9/4/21**

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WHAT DO I NEED TO DO EVERY WEEK TO KEEP GETTING BENEFITS (1)

- **Every week** you need to “certify” that you are still eligible for unemployment benefits, and you need to report your earnings; must certify within U.S.
- If your earnings = 1/3 of your weekly benefit amount, they will not be counted, after that you get a \$ for \$ deduction from your weekly benefit amount
- If you earn 133% of your weekly benefit amount, you are no longer eligible
- FPUC and MEUC (+\$300 & +\$100) are not used in calculating disregard
- You can certify online through UI Online or the PUA online account

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WHAT DO I NEED TO DO EVERY WEEK TO KEEP GETTING BENEFITS (2)

- In addition to certifying online, you can certify over the telephone
 - For regular UI, call TeleCert 617-626-6338 (automated English, Spanish, Portuguese, and Cantonese)
 - TeleCert available daily from 6 a.m. – 10 p.m.
- For both regular UI and PUA, you can call 877-626-6800 to speak with an agent for multilingual assistance
 - Open 8:30 – 4:30 p.m., Monday through Friday
 - Multilingual agents are available
 - **Regular UI** weekly certification instructions are available in [Spanish](#), [Portuguese](#), [Haitian Creole](#), [Chinese](#), [Vietnamese](#), [Russian](#), [Khmer](#), [Lao](#), [Korean](#), [Arabic](#), [French](#), and [Italian](#)
- Hearing Impaired Voice Relay 711

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WORK SEARCH REQUIREMENT

- Work Search Requirements
 - Claimants are normally required to complete at least 3 work search activities each week and to keep a weekly log to continue to be eligible for regular UI.
 - Because of COVID, DUA waived the work search requirement.
 - DUA reinstated the Work Search Requirement effective the week of **June 13, 2021**.
 - This requirement applies to all regular UI claimants, including those with COVID-related reasons such as lack of childcare
 - Federal law requires DUA to have flexible work search policies for workers getting PEUC for a COVID-19 reason.

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MASSHIRE CAREER CENTERS

- Although suspended during the pandemic, you may be required shortly to attend a seminar at a MassHire Career Center to help you find a job.
- If you receive a notice, you must schedule and go to the seminar by the deadline stated in the letter.
- Call automated MassHire Career Centers seminar scheduling system at 1-(800) 653-5586, or to find nearest Center go to <https://www.mass.gov/masshire-career-centers> to schedule attendance, after receiving notice to attend.
- Failure to go to a scheduled seminar without “good cause,” may cause delay in payment or loss of UI benefits.

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WHEN CAN I REFUSE WORK AND STILL GET UNEMPLOYMENT BENEFITS (1)

- For **PUA**, you can refuse work and still get benefits if:
 - You are diagnosed with COVID, have symptoms of COVID, or come into direct contact with someone with COVID
 - Your job does not comply with local, state or national COVID health & safety standards (including masking, physical distancing or provision of PPE)
 - You are caring for a family member who has COVID
 - In-person full-time school or summer camp is not available for your children
 - A govt. agency or health care professional told you to quarantine.

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WHEN CAN I REFUSE WORK AND STILL GET UNEMPLOYMENT BENEFITS (2)

- For regular UI, PEUC, or EB (**but not PUA**), you must be able, available and actively seeking full-time work that is "suitable."
 - Exception: an individual with disabilities need only be available for part-time work for at least 15 hours/week that makes a reasonable accommodation for disability. 430 Code of MA Regs (CMR) 4.45.
- You can refuse work and still get benefits if:
 - You believe that your job puts you, or an immediate family member or household member at risk for COVID because of age or medical conditions.
 - You believe that sending your child to in-person school so that you can work puts you, your child, an immediate family member or household member at risk for COVID.
 - Work is not suitable because it does not accommodate your need to provide full-time care-giving responsibilities to a child, other family or household member. See [UIPP 2020.12](#)
- This is in effect until at least 9/4 & until DUA gives claimants 30 days notice in their preferred language that these reasons are ending. See [St. 2021, c. 20, sec. 24](#).

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WHAT IF I AM TOLD THAT I HAVE BEEN OVERPAID PUA BENEFITS (1)

- Check that overpayment (OP) notice is correct. **If the decision is wrong, you can appeal within 30 days of the OP notice.**
- You must repay the benefits **only after you get a final agency decision and are denied a waiver of overpayment.**
- To appeal an overpayment:
 - “More...” > “Appeals” > copy and paste corresponding letter ID
 - If an appeal has been filed on the underlying disqualification resulting in the OP, you do not have to file another appeal
 - If the underlying disqualification has not been appealed, filing an appeal for the OP which will relate to underlying issue
 - If you win at the hearing on the underlying issue, you are eligible for PUA, provided no other disqualifications, and the OP goes away

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WHAT IF I AM TOLD THAT I HAVE BEEN OVERPAID BENEFITS (2)

- When you have a final DUA agency decision stating you have been overpaid unemployment benefits you can get a waiver of the overpayment. **To get a waiver of the overpayment:**
 - For UI Online: go to the “Manage Debt” page – “request a waiver:”
 - For PUA: go to your PUA account home page > “Overpayment Options” > “Request an Overpayment Waiver:”
 - Ask for a waiver of benefits if the overpayment was not your fault; **and**
 - You used the \$\$ for things that were not ordinary expenses; **or**
 - You gave up other \$\$ (such as welfare payments) because you got unemployment benefits; **or**
 - Your income is less than your expenses.
 - A claimant on SSI, SSI coupled with SSDI, or EAEDC is presumed eligible for a waiver.
- To stop any collection action, apply for the waiver **within 15 days of the final decision.**
- DUA may be combining hearings on underlying appeal and the waiver to speed up process.

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DO I NEED TO PAY TAXES ON THE UNEMPLOYMENT BENEFITS

- Yes, you will need to pay state and federal taxes on the unemployment benefits you received during 2020.
- DUA provides a form called a 1099G.
- For UI: form is available at www.mass.gov/dua/webcert or request through UI Online at View and Request 1099G.
- For PUA: call DUA's Interactive Voice Response (IVR) at 617-626-5647.
- The first \$10,200 of 2020 UI benefits (or \$20,400 if married filing jointly) is exempt from **federal** tax on UI if adjusted income less than \$150,000.
- The first \$10,200 of 2020 and 2021 UI benefits is exempt from **state** tax on UI if household income is lower than 200% of the federal poverty line.
- Taxes were due 5/17/2021 but Dept. of Revenue is prohibited from charging any assessments for the failure to pay **state** taxes on UI received during 2020.

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MARRERO V. JEFFERS WORCESTER COUNTY SUPERIOR COURT: PROVIDING SPEEDIER DECISIONS & DUE PROCESS

If DUA stopped paying benefits when you had weeks remaining but didn't offer you an interview with a DUA agent, the Court requires DUA to:

- Make determinations on new claims within 30 days;
- Provide notice of any review and reasons along with an interview before stopping benefits;
- Stop recovering any overpayments until claimants exhausted all appeals and the DUA decision is final.

For more information, please visit <https://communitylegal.org/get-help/covid-19-information-resources/marrero-relief/>

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IMPROVING THE UI EXPERIENCE

- DUA is overhauling its UI system with a UI Advisory Council consultation.
- Legal aid has 2 representatives on this Council: GBLS Attorney Hannah Tanabe, htanabe@gbls.org and Southeast MA Justice Center Attorney Stephanie Herron Rice, sherronrice@justicema.org
- As part of the process, there will be opportunities for stakeholder feedback
- If you are interested in providing feedback including comments at a public hearing, please contact Hannah or Stephanie.

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ADDITIONAL RESOURCES

- To find local legal aid resources, go to the Massachusetts Legal Resource Finder at www.MassLRF.org
- Legal aid Fact Sheet- UI and PUA, updated at: masslegalservices.org/covid-19-and-ui
 - Find more legal information at: masslegalhelp.org
- MA Department of Unemployment Assistance (DUA): mass.gov/unemployment; 877-626-6800
- MA Office of Attorney General FAQ & Hotline About COVID-19:
 - mass.gov/service-details/frequently-asked-questions-about-covid-19-employee-rights-and-employer-obligations
 - mass.gov/forms/report-unsafe-working-conditions-during-covid-19; 617-727-3465
 - mass.gov/guides/resources-during-covid-19#-child-care-and-other-resources-for-families-
 - mass.gov/ago/earnedsicktime; 617-727-3465
- MA Department of Family and Medical Leave: mass.gov/pfml; 833-344-7365
- MassCOSH Worker Safety Toolkit: bit.ly/workertoolkitCOVID19

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The information in these slides is general advice as of 7/19/2021 and is not legal advice.

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