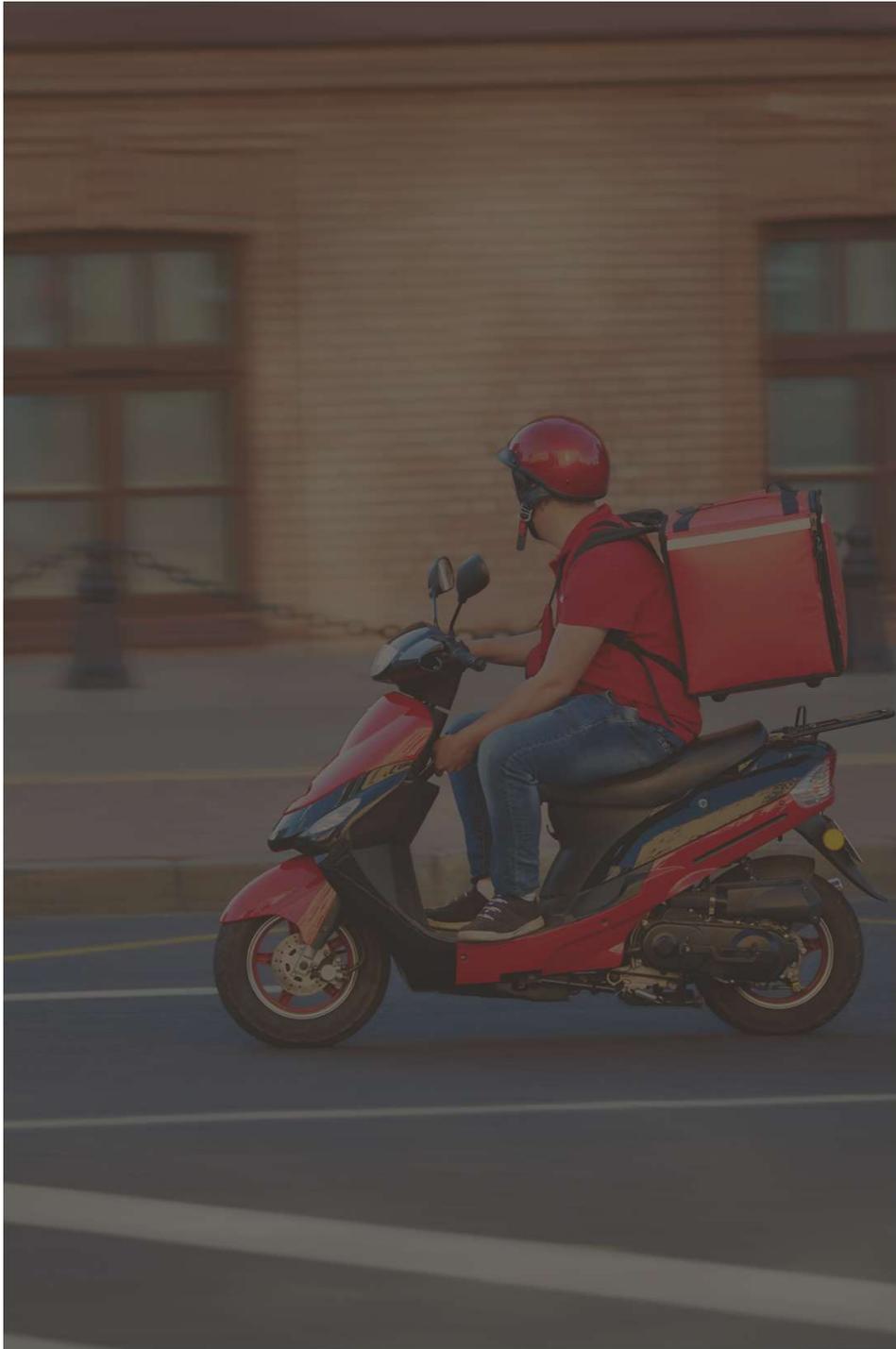




COVID-19, Unemployment Insurance, and Unemployed Workers

NELP

NATIONAL
EMPLOYMENT
LAW
PROJECT



Agenda

- ▶ Welcome
- ▶ Unemployment Insurance Overview
- ▶ Federal Policy Overview
- ▶ Gig Workers
- ▶ Pandemic Unemployment Assistance
- ▶ Immigrant Workers
- ▶ Resources
- ▶ Q&A



**Rebecca Dixon,
NELP Executive
Director**



About NELP

NELP provides legal expertise, research and policy analysis, and communications and coalition-building support to labor and worker organizations, policy makers, and economic justice advocates around the nation to improve labor standards and access to good jobs for working people.

NELP has advocated in partnership with working people to defend their **rights, to establish **new protections**, and to build **collective power**.**



**Michele Evermore,
NELP Senior
Researcher and
Policy Analyst**

Overview of Unemployment Insurance



**Judy Conti,
NELP Government
Affairs Director**

CARES Act Programs

Pandemic Emergency Unemployment Compensation (PEUC):

- 13 weeks more for workers who exhaust state UI
- Same benefit level as state UI
- Available through 2020

Pandemic Unemployment Compensation (PUC):

- \$600 increase in weekly benefits for all those on state UI and PUA (ends July 31st, unless extended)

Short-Time Compensation (“Work Sharing”):

- States reimbursed 100% for STC programs enacted into law/50% for new programs adopted by state policy

Federal UI Priorities

- **\$30-40B in State UI Admin/IT Grants**
- **Fix the Extended Benefits Program**
- **Extra Tiers of UI/PUA Benefits
(Economic Indicator Triggers)**
- **Continue \$600 Weekly Increase
(Economic/Health Indicator Triggers)**
- **Require Short-Time Compensation**
- **UI Loan Relief for Responsible States**



**Brian Chen,
NLP Staff Attorney**

UI tests for “employee” status

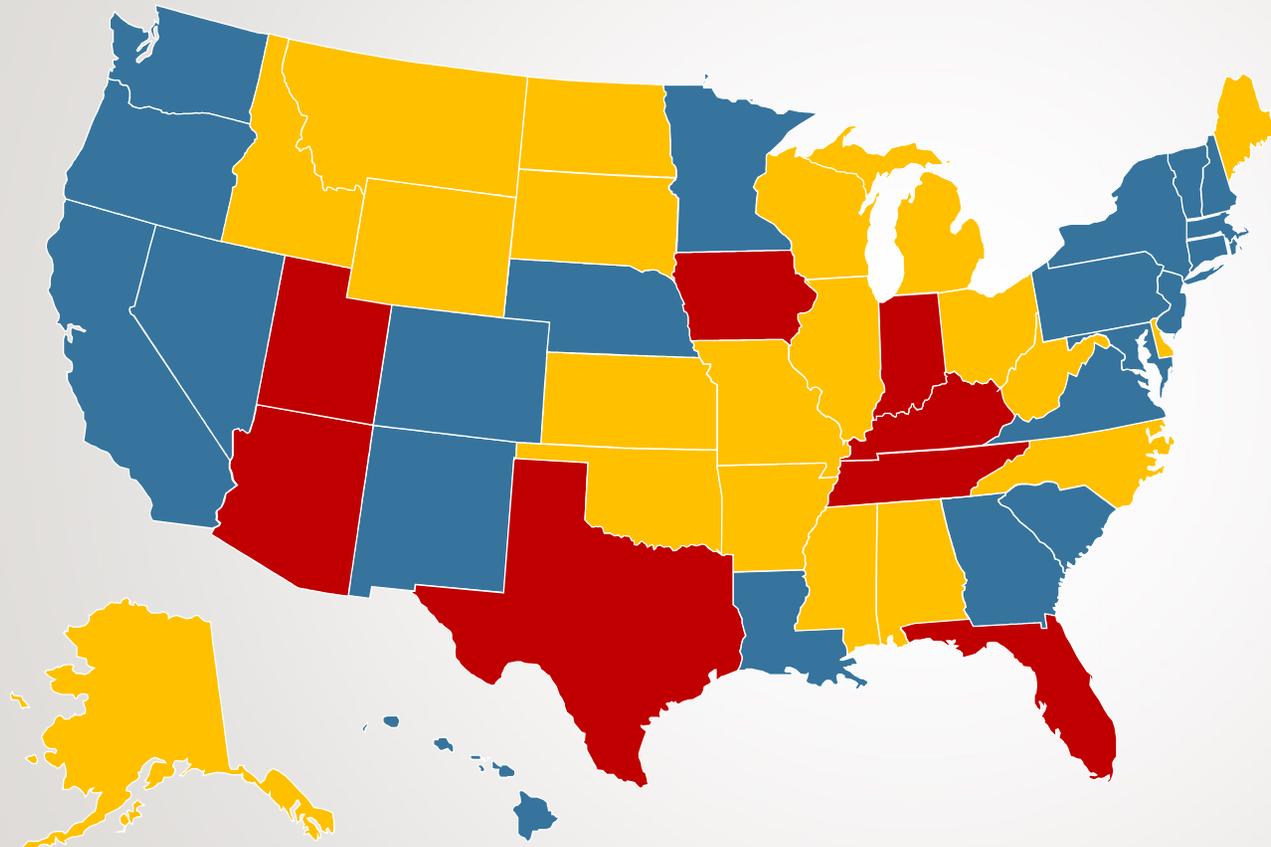
ABC test

- A. Worker is free from employer’s control
- B. Worker provides services outside the usual course of business of the company; and
- C. Worker is customarily engaged in independently established trade

Right-to-control test

- Extent of control that hiring entity may exercise
- Skill required in particular occupation
- Whether hiring entity supplies tools and place of work
- Whether work is part of the regular business of the hiring entity
- And other factors...

On-demand worker carveouts from UI coverage



Transportation Network Company	Marketplace Platforms
Uber Lyft	Uber Lyft Handy Door Dash Postmates Instacart Etc...

- All marketplace platform workers cannot receive UI (PUA applies)
- TNC drivers cannot receive UI (PUA applies)
- No on-demand worker carveout (UI *should* apply*)

*In states with no carveout, we believe many app-based workers, under a fair reading of the law, are employees eligible for UI. However, the reality is that some states have already announced they will process app-based workers for PUA, not UI. Doing so may be the most expedient way to get benefits, especially since many app companies do not make wage data available to the states. Where state agencies have clearly expressed that app-based workers should apply for PUA, misclassified workers should follow that guidance.



**Maurice Emsellem,
NELP Fair Chance
Program Director**

Pandemic Unemployment Assistance (CARES Act)

- **Covers workers not eligible for UI (including self-employed) who are unemployed for 11+ COVID-19-related reasons.**
- **For example: quarantined, self-quarantined, caring for children who can't attend school, place of business is closed, had to quit job.**
- **39 weeks (retroactive to January 27th through 2020)**
- **PUA weekly benefit is the same as the state's UI , except there's a higher minimum weekly benefit.**
- **Does not cover those who can telework with pay or are receiving paid sick or paid leave benefits.**



PUA Covered Conditions

Applicants will need to provide self-certification 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 of it 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.





**Rebecca Smith,
NELP Director of
Work Structures**

Immigrant Worker Eligibility – State UI

The general rule is that workers must have valid work authorization at the time that they apply for benefits and throughout the period during which they are receiving benefits.

- DOL says that workers must have work authorization during the base period.
- DOL says workers must have work authorization in order to be “able and available” to work.



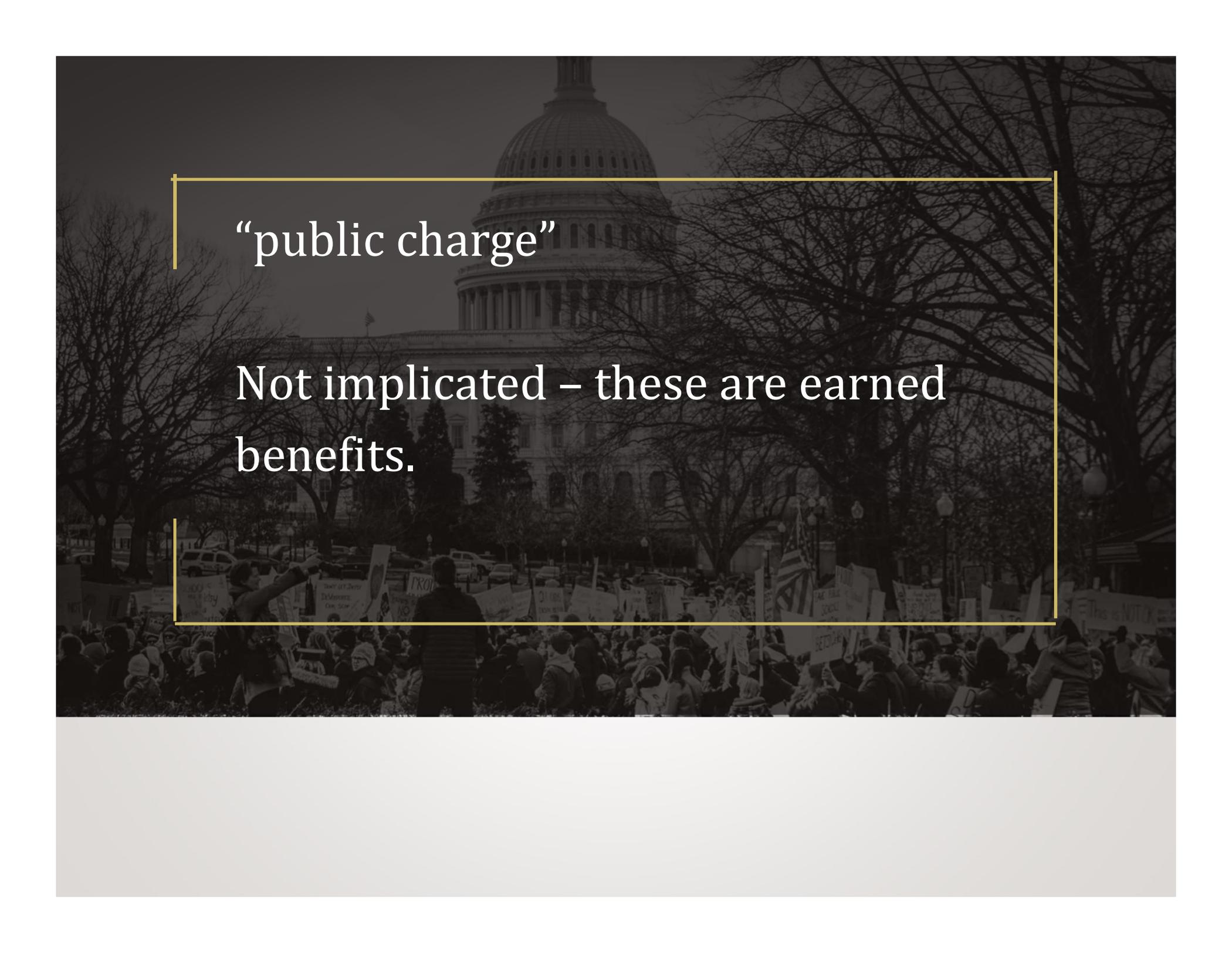
Which Immigrants Qualify?

- Work authorization inherent in status:
 - Lawful permanent residents
 - Refugees
 - Asylees, and some applicants
 - Compact of Freely Associated States
- Work Authorization:
 - DACA recipients;
 - TPS recipients and applicants
 - Applicants for cancellation of removal.

Immigrants' Eligibility for Federally-Funded benefits

DOL considers federally-funded benefits differently and says only “qualified aliens” are eligible.

- Lawful permanent residents
- Refugees
- Asylees
- People granted withholding of removal;
- Parolees for more than one year
- Cuban/Haitian immigrants
- Certain survivors of domestic violence



“public charge”

Not implicated – these are earned benefits.



**Nzingha Hooker,
NELP Staff Attorney**

Resources for Partners



How Do You Know if Your Local Government Has the Legal Authority to Adopt a Policy in Response to the Coronavirus Pandemic?

As the coronavirus pandemic spreads, local elected officials and advocates are asking what they can do for their communities. This brief guide can help you determine whether your community has the authority it needs to adopt a particular policy. This guide is not intended to be legal advice; rather it aims to encourage communities, city attorneys, and advocates to examine the possibilities for creative local action.

1 What's the Policy?

Identify the policy you want to implement.

Some policies might be targeted and short-term, while others might aim to continue long-term. Across the country, cities, towns, and counties are considering eviction moratoriums; utility moratoriums on utility shutoffs; rent control; child care for workers and first responders; and home, paid sick leave, and broadband access. (These examples may not be appropriate for your community.)

LSSC
Local Solutions Support Center



FEATURED RESOURCES

TOOLKIT:

[Worker Safety & Health During COVID-19 Pandemic: Rights & Resources](#)

FACT SHEETS:

[Immigrant Workers' Eligibility for Unemployment Insurance](#)

Spanish: [Eligibilidad de Trabajadores Inmigrantes Para Seguro de Desempleo](#)

[Unemployment Insurance Provisions in the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#)

[Understanding the Unemployment Provisions of the Families First Coronavirus Response Act](#)

POLICY BRIEFS:

[Independent Contractors and COVID-19: Working Without Protections](#)

Spanish: [CONTRATISTAS INDEPENDIENTES Y COVID-19: TRABAJANDO SIN PROTECCIÓN](#)

[Independent Contractors and COVID-19: Working Without Protections](#)

[Unemployment Insurance Protections in Response to COVID-19: State Developments](#)

[Enact Policies to Protect Workers as U.S. Faces Coronavirus](#)

[Unemployment Insurance and Coronavirus - Options for Policymakers to Mitigate Job Loss](#)

[Rebooting Disaster Unemployment Assistance - Steps for](#)



POLICY BRIEF | MARCH 2020

Coronavirus Pandemic and Unemployment Insurance: Options for Policymakers to Mitigate Job Loss

The most important thing to understand is that unemployment insurance (UI) is a system designed to deal with large-scale unexpected job loss. It is one of the most important countercyclical tools already available to help workers, families, and communities soften the blow of job loss during a pandemic.

For workers whose place of employment shuts down, if they are not sick and are able and available to work, they generally meet the UI standard of having lost work through no fault of



POLICY BRIEF | 27 MARCH 2020

Unemployment Insurance Protections in Response to COVID-19: State Developments

On March 12, 2020, the U.S. Department of Labor issued a [guidance](#) clarifying what measures states can take to improve access to unemployment insurance (UI) for workers who lose their jobs or are temporarily separated from work due to the coronavirus. Below is a summary of the most helpful state provisions adopted as of March 27, 2020.

NELP also has published a set of [recommendations for state reform](#) and summaries of the UI provisions in the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) and the [Families First Coronavirus Response Act](#), which incentivizes states to adopt certain baseline reforms, such as waiving the waiting-week and work-search requirements that limit access to UI.

States are moving quickly to adopt changes, so we caution that this document may not be comprehensive, although we will update it regularly. Please contact Maurice Emmellen (emellen@nelp.org) or Paul Sonn (psonn@nelp.org) if you have information about additional state actions taken to expand unemployment benefits in response to the pandemic.

States Have Adopted a Range of Helpful Policies to Expand Access to UI benefits

- At least 35 states have taken action (either legislatively, by executive order, or by administrative authority) to waive the one-week waiting period that all but seven states (GA, IA, MD, MI, NV, NJ, VT, WY) impose for most workers to collect UI benefits.
- At least 16 states have indicated that benefits issued will not be "charged" to the employer's "experience rating"—meaning that employers will not be penalized with higher UI tax rates in future years because of filing claims. This is important to ensure employers do not try and discourage employees from filing claims.
- By exec (rather than legislatively)
- At least Massachusetts

State or Territory	Waiting Week	Quarantine & Other Covered Circumstances	Work Search Suitable Work
Alabama	Waiting week waived	<ul style="list-style-type: none"> UI benefits are available to workers who are totally or partially unemployed due to no fault of their own. If the employer required the worker to stay home but did not offer telework, the worker might be eligible for benefits if they met the monetary and weekly eligibility criteria. If an asymptomatic employee imposes a self-quarantine because of the coronavirus, the individual—not the employer—is choosing not to work and, therefore, would be ineligible. Case by case determination will be made. 	<p>"Able and a work requirement has been modified by affected by in any of the situations: 1) those who are quarantined by a medical professional or a government agency; 2) those who are laid off or sent home without pay for an extended period by their employer due to COVID-19 concerns; 3) those who are diagnosed with COVID-19; or 4) those who are caring for an immediate family member who is diagnosed with COVID-19.</p> <p>Workers will not have to search for other work provided they take reasonable steps</p>

NELP | STATE UNEMPLOYMENT INSURANCE PROTECTIONS IN RESPONSE TO COVID-19 | 27 MARCH 2020



Dear Caitlin,
Across the country, workers, communities, and advocates are coming together to support each other during this time of unprecedented distress, hardship, and uncertainty.

People are establishing robust mutual aid networks, workers are waking out, demanding basic rights and safety on the job, and workers and advocates are pushing for legislation that meets the gravity—and the urgency—of this crisis. Many workers are also applying for unemployment insurance, which is operating as the critical economic support program it is intended to be. (Workers who are applying should stick with it, even if they are facing delays.)

Today, we recognize the significant aid secured in the coronavirus response package passed by the Senate on Wednesday, and now the House this afternoon, which provides critical relief for millions of workers. Still, the legislation has several gaps, unconscionable omissions, and leaves out millions of people in need of aid.

Workers and our coalition worked hard to ensure the bill included \$250 billion in temporary enhancements to the unemployment insurance system, including a \$400 increase in the weekly checks of unemployed workers and a crucial disaster relief program called Pandemic Unemployment Assistance (PUA) that expands UI coverage to self-employed workers, independent contractors, and others.

The legislation also includes crucial funding to help states implement, improve, and promote work-sharing programs, which provide employers a practical alternative to layoffs during downturns.

However, many further reforms are necessary, including expanding the Pandemic Emergency Unemployment Fund through 2020 at least.

In the next package, Congress also must enact long-term, structural reforms to our unemployment insurance system that will enable workers to weather the duration of this crisis, the coming recession, and beyond—such as finally mandating a minimum of 26 weeks of UI in all states.

We're also extremely disappointed that the legislation does not ensure that all workers can access Paid Sick Days and Paid Leave, and it is absolutely shameful that there is no mandate that OSHA issue an Emergency Temporary Standard to protect healthcare and other at-risk workers.

We also stand with our partners in condemning the legislature's failure to include undocumented immigrants, workers in the informal economy, and others throughout the country who are the most in need of aid.

This moment places the incalculable of our society in sharp focus, and underscores the urgent need for long-term, structural change that is centered on the needs of Black workers and other people of color, immigrants, LGBTQ people, women, and communities can access relief.

Through our new resource page, Twitter (@NelpNews), and Facebook page, we will continue to share resources and updates on unemployment insurance, health and safety, and other critical worker issues in this time.

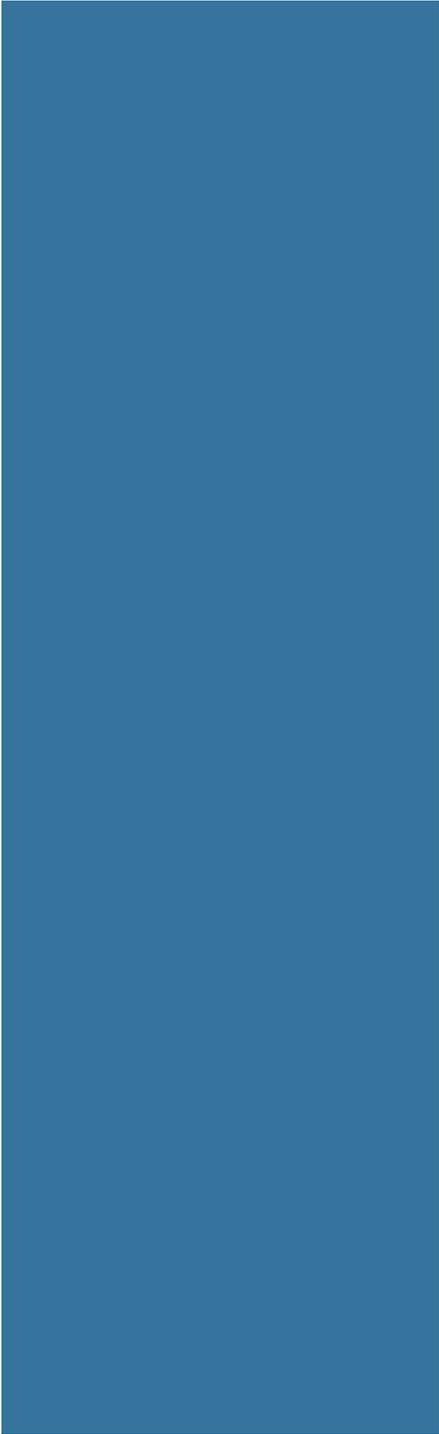
Thank you for your support—and take care.

In Solidarity,

Rebecca Dixon,
NELP Executive Director

Alabama Department of Labor's News Release (March 20, 2020): https://www.labor.alabama.gov/news_feed/News_Page.aspx

Alabama Department of Labor's News Release (March 16, 2020): https://www.labor.alabama.gov/news_feed/News_Page.aspx?Id=201



Resources for State & Local Partners

- Fact sheets
- Issue Briefs
- Toolkits
- News Releases, Press Coverage
- Take Action items
- And more!



COVID-19 Resources for Partners and Policymakers: NELP UI Listserv

To subscribe, please send an email to

[nelp-uiadvocates-
subscribe@yahoogroups.com](mailto:nelp-uiadvocates-subscribe@yahoogroups.com)

Resources for Workers

COVID-19 RESOURCES FOR UNEMPLOYED AND FRONTLINE WORKERS

In this unprecedented moment, workers are coming together to fight for their health, safety, and economic security. For 50 years, NELP has advocated in partnership with working people and we believe the only way forward is together. We are in this with you. Please use and share these resources for unemployed and front line workers. Check back frequently for updated materials.

Frequently Asked Questions

- ✓ I have lost my job or my hours have been reduced. Can I get unemployment insurance?
- ✓ Could I qualify for the new Pandemic Unemployment Assistance?
- ✓ I am working but am worried about my health and safety at the job. What can I do?
- ✓ I am an immigrant worker and have lost my job. Am I eligible for unemployment insurance?
- ✓ I filed for unemployment insurance but was denied. What can I do?

Resources to Learn More about Unemployment Eligibility

- Are you out of work because of COVID-19? [Read this fact sheet](#) to find out more about new and expanded unemployment benefits.
- What are the three new unemployment insurance programs in the CARES Act? This fact sheet explains the programs created in the latest federal stimulus bill in three languages: [ENGLISH](#) | [SPANISH](#) | [CHINESE](#)
- What are the existing laws and new changes state unemployment programs have made? [Download this data brief](#) for a state-by-state summary.

Resources about Health and Safety on the Job

- [Worker Safety & Health During COVID-19 Pandemic: Rights & Resources Toolkit](#)

Resources for Independent Contractors & Temp Workers

- [Independent Contractors and COVID-19: Working Without Protections](#)
- [Contratistas Independientes y COVID-19: Trabajando Sin Protección](#)
- [COVID-19 Information for Temporary Workers](#) (Temp Worker Justice)

Resources for Immigrant Workers

- [FAQ: Immigrant Workers' Rights and COVID-19](#) – A Resource for Workers and Their Advocates (NELP, National Immigration Law Center, & Ohio Law Protect)
- [Immigrant Workers' Eligibility for Unemployment Insurance](#)
- [Eligibilidad de Trabajadores Inmigrantes Para Seguro de Desempleo](#)
- [COVID-19 Resources](#) (Centro Legal de la Raza)
- [COVID-19 and Worker Issues](#) (Asian Americans Advancing Justice)

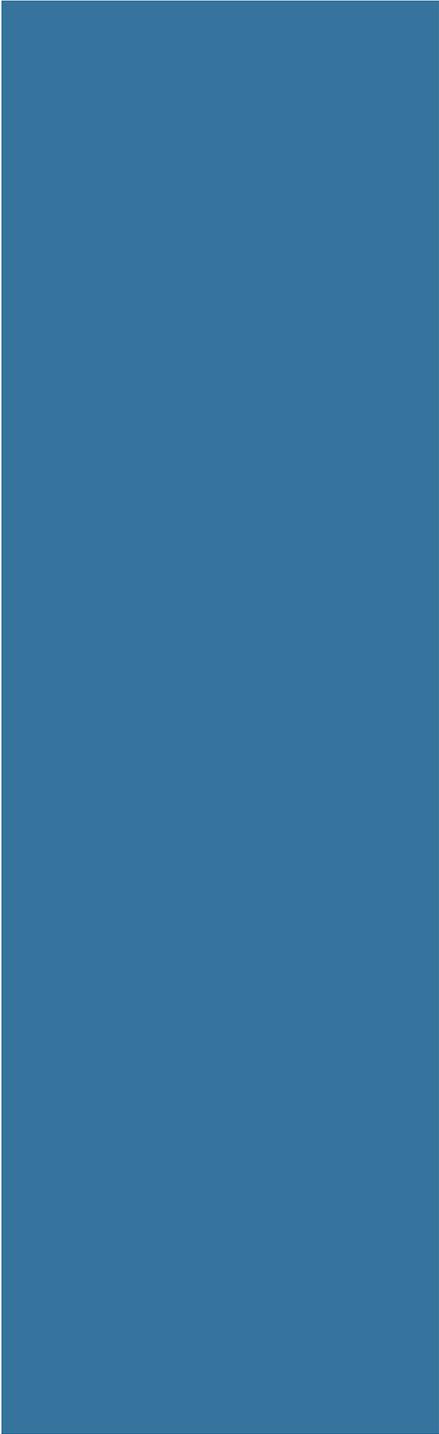
Learn More about Paid Sick Days and Paid Family Leave

- [Paid Sick Days and Paid Family Leave Know Your Rights](#) (Family Values at Work)
- [Know Your Rights on Paid Sick Days and Paid Leave](#) (National Partnership for Women and Families)

State & Local Resources

- [List of unemployment insurance websites by state](#)
- [List of Legal Aid by state](#)
- [List of Mutual Aid Networks](#)





Resources for Workers

- FAQs
- Know Your Rights materials
- Toolkits
- Links to State UI websites, Legal Aid, and Mutual Aid sites
- And more!



COVID-19 Resources for Unemployed and Frontline Workers

www.unemployedworkers.org

Connect with NELP



@NELPNews



/NationalEmploymentLawProject

NELP

www.nelp.org



www.raisetheminimumwage.org



connect.nelp.org



www.puttingworkersfirst.org



Question & Answer

Thank You



Visit www.nelp.org

Connect with NELP on social media:



