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Concise Guide to Assistance for Jobless Workers in the American Recovery and Reinvestment Act

Introduction

Congress recently passed the American Recovery and Reinvestment Act of 2009 (ARRA).The law was signed by President Obama on February 17, 2009. In order to assist the growing ranks of jobless workers and boost our economy, ARRA's unemployment insurance (UI) provisions and related measures should be put into place as soon as possible by following the steps outlined here. This NELP guide explains ARRA's assistance for unemployed workers as well as a summary of state actions required to take fullest advantage of ARRA's new features for helping jobless workers and their families.

Help for Long-Term Unemployed Workers

The U.S. economy has now been officially declared "in recession" since December 2007. Over 3.6 million jobs were lost in 2008, and those job losses are continuing each day. New unemployment insurance claims have doubled from 333,000 a week in January 2008 to 638,000 by February 2009. At the same time, continued unemployment insurance (UI) claims rose from 2.7 million in the first month of 2008 to 5 million in February 2009. Growing levels of long-term unemployment and UI claims exhaustions are expected throughout 2009. With thousands exhausting their benefits each week, providing assistance to these individuals and their families is critical.

ARRA contains some key measures to assist jobless workers who have exhausted state UI benefits.

- Significantly, ARRA extends the existing Emergency Unemployment Compensation (EUC) program from its scheduled expiration in March 2009 until December 31, 2009. Benefits will then phase out, unless Congress acts to extend EUC. (We would anticipate that this will happen.) Under EUC, workers in most states (those with unemployment levels above 6 percent) are getting up to 33 weeks of benefit extensions. Those in states with lower unemployment levels receive 20 added weeks of benefits.
- ARRA makes the permanently authorized Extended Benefits (EB) program a 100 percent federally-funded program until December 31, 2009. Normally, EB is paid 50 percent by federal funds and 50 percent from state UI trust funds. (Again, we would expect this deadline to get extended beyond December 31, 2009.) Some states have already triggered on EB as unemployment has risen and workers in those states will get EB benefits after they exhaust EUC benefits.

  Other states need to adopt a different EB "trigger" so that workers losing EUC can get added extensions under EB. This state action is explained in more detail below.

What UI Benefit Extensions Are Currently in Place? Congress passed and President Bush signed two pieces of legislation during 2008 that created and improved the Emergency Unemployment Compensation (EUC) program. Since November 2008, EUC has paid 20 weeks of benefit extensions in all states, and 33 weeks of benefit extensions in "high unemployment" states (with unemployment rates over 6 percent).

What is meant by EUC Tier I and Tier II? The terminology being commonly used refers to the basic 20 weeks of EUC as "Tier I," while the 13 added weeks in higher unemployment states is known as "Tier II." As of the week of March 1, there are 18 states with lower levels of unemployment paying only Tier I benefits: Colorado, Delaware, Hawaii, Iowa, Kansas, Louisiana, Maryland, Nebraska, New Hampshire, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Virginia, West Virginia, and Wyoming. All other states pay Tier I and Tier II of EUC.

There is no practical distinction between a week of Tier I benefits and a week of Tier II benefits, and states should not require new applications from claimants who are moving directly from Tier I to Tier II benefits. Jobless workers should continue to file claims and report their work search as instructed by state UI agencies.

Are There Additional Actions States Can Take under ARRA to Help Long-Term Jobless Workers? States have a new option to help those exhausting EUC benefits in their states because EB is now fully federally financed. Under existing federal law, states can use a Total Unemployment Rate (TUR) trigger to turn on EB in their states. Although this 6.5 percent TUR trigger is the best available option for EB triggers under current law, only 11 states have adopted TUR triggers. Of these, six (Alaska, Connecticut, North Carolina, Oregon, Rhode Island, and Washington) have triggered on to EB. As a result, workers in these TUR trigger states are getting an added 13 weeks of EB benefits after they exhaust EUC benefits. Another advantage of TUR triggers is that once unemployment exceeds 8 percent in a state, workers get 7 added weeks of EB, for a total of 20 weeks of EB benefits. All these weeks of EB will come after EUC is exhausted, if workers remain out of work, seek work, and remain otherwise eligible.

In addition to fully implementing UI modernization, states that don't have the TUR trigger should amend their state UI laws to include this option. In particular, workers exhausting EUC in California, D.C., Michigan, Nevada, Puerto Rico, and South Carolina could now get a full 20 weeks of federally financed EB benefits after exhausting EUC, if these states with TURs over 8.0 percent adopted TUR triggers. Meanwhile, long-term jobless workers in Alabama, Arizona, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New York, Tennessee, and Virgin Islands would now get 13 weeks of EB if their states had a TUR trigger.

More Money for Every Jobless Worker

Some federal help for unemployed workers, in effect, happens automatically under ARRA, and these changes are already taking effect. Here are 2 key changes.

- All states are currently implementing benefit increases funded by ARRA. All jobless workers will get an extra $25 a week in their unemployment benefit checks beginning with the week for which a state enters into agreement with the U.S. Secretary of Labor until the week of January 1, 2010. At that time, individuals already receiving the extra $25 will continue to do so until they exhaust their benefits, but in no case after June 30, 2010. This extra $25 a week will impact jobless workers on regular state UI benefits as well as those getting benefit extensions and is fully paid with federal funds. Workers will get the increased amounts automatically, either as an increase in the amount of their weekly benefits or in a separate check (or direct deposit or debit card, depending upon each state's payment methods). This added $25 is paid for with federal funds provided under ARRA.

- The first $2400 of UI benefits in 2009 will not be subject to federal income taxation. In some cases where state income tax laws are linked to federal taxation rules, this will also mean that state income taxes also will not apply to a portion of UI benefits. This temporary exemption from taxation (for 2009 only) will provide partial relief to unemployed workers' families tax bills next year, but should be permanently expanded and extended to exempt all unemployment benefits from income taxation.

Unemployment Insurance Modernization

ARRA contains federal financial incentives for states to "modernize" their UI laws. In the U.S., only 37 out of 100 jobless workers received regular state UI benefits in 2008. This level of UI benefit receipt is among the lowest levels found among countries with highly developed economies. In the weeks since ARRA was adopted, UI modernization has been one of the most hotly contested features of ARRA. Under UI modernization, ARRA offers up to $7 billion in federal incentive funding in exchange for positive state UI law provisions that make more jobless workers eligible for benefits. These ARRA incentive funds are given to states' UI trust funds that already have or those that adopt positive state UI law features selected in ARRA that will increase access to UI benefits prior to August 2011.

Why is Unemployment Insurance Modernization Part of ARRA? UI "modernization" was included as part of ARRA because many states, including Louisiana, Mississippi, South Dakota, Texas, and others currently pay UI benefits to less than 30 out of 100 of their jobless workers. Overly strict state UI eligibility rules leave these states' UI programs too stingy to help many jobless workers. This in turn is undercutting important national economic stimulus goals for UI. So, ARRA provides these states with a "carrot" to improve UI eligibility through UI modernization while rewarding states that already have better features in their UI laws. This will modestly increase the numbers of jobless workers getting UI benefits while improving the equity of state UI programs.

How Do States Qualify for Modernization Payments? Five states (Maine, New Jersey, New Mexico, New York, and Washington) already have state UI laws that meet or exceed the modernization requirements in ARRA. These 5 states will receive their full portions of the overall $7 billion federal incentive payments in the near future (ranging from $39 million in New Mexico to $412.7 million for New York). (As with all states, they must apply for the modernization payments with the Secretary of Labor and show they have the required modernization elements in their laws.) The remaining states have options concerning which UI modernization elements found in ARRA they want to adopt in order to get their UI modernization funds.

What is the Alternative Base Period and What Is Its Role in UI Modernization? UI modernization options fall into 2 groups. The first element of ARRA modernization is mandatory. If states wish to receive modernization payments, their UI programs must have an "alternative base period." States that have alternative base periods (ABPs) use recent wages to determine UI eligibility. Those that do not have ABPs in their state UI laws must adopt alternative base periods as a first step toward implementing modernization under ARRA. States that have ABPs or amend their UI laws to include them immediately qualify for one-third of their overall portion of the $7 billion in federal incentive payments.

Nineteen states (including the 5 listed above that already have all their UI modernization elements in place) have alternative base periods that meet ARRA requirements (these include Connecticut, D.C., Georgia, Hawaii, Illinois, Maine, Massachusetts, Michigan, New Hampshire, North Carolina, Ohio, Rhode Island, Vermont, Virginia, and Wisconsin). As a result, these 14 states already qualify for 1/3 of their portion of the full modernization incentive payments. For example, Wisconsin will receive $44.6 million for having the alternative base period soon after it applies. To get the remaining 2/3 of their full modernization incentive ($89.3 million) Wisconsin will have to complete its implementation of UI modernization by selecting from the modernization elements found in ARRA. These modernization elements are explained next.

In Addition to Alternative Base Periods, What Other Steps Do States Need to Take? To summarize, all states must have an alternative base period if they wish to participate in UI modernization. Then, they will receive one-third of their overall UI modernization payment. To get the remaining two thirds of their potential ARRA incentive payments, states must have two of four remaining modernization elements in their state UI laws: (1) eligibility for part time workers who have a history of part time work, (2) permitting individuals to leave work without disqualification when they have compelling family reasons for quitting, (3) providing at least 26 weeks of additional UI benefits for individuals participating in approved training, and (4) paying dependents' allowances of at least $15 a week per dependent. Under this second optional portion of UI modernization, states can apply for their incentive payments once they have at least 2 of the 4 modernization elements in place. The specific options that states will take will be determined by Governors and Legislatures. And, the last date by which states can act is August 2011.

Health Care Continuation under COBRA

Under existing law, employers of 20 or more individuals with health plans must offer them an option under COBRA to pay for continuation of their health insurance coverage. Regular COBRA payments are 102 percent of the group health rate for either individuals or family members, depending upon the circumstances. ARRA recognizes that this COBRA option is not affordable for most unemployed workers. As a result, ARRA offers a temporary measure under COBRA to expand the number of jobless workers maintaining health care coverage with COBRA by providing a subsidy of 65 percent of premium costs for up to nine months for individuals losing health care coverage because they were involuntarily terminated from their jobs on or after September 1, 2008.

Workers falling under this new subsidized COBRA provision will get notice from their employers or health plans of their COBRA option and must pay 35 percent of the premium costs within the enrollment period. The government will pay the 65 percent portion of the premium directly to the health care plan. Complete details of this COBRA subsidy plan have not yet been spelled out by U.S. Department of Labor or Treasury officials, but workers that get a notice from their employers or health plans will need to respond timely.

SOURCES AND MORE INFORMATION

We have relied upon several sources in preparing this guide. To begin, here is a link to the full ARRA text (Public Law 111-5) on the Government Printing Office website. Title II (starting on page 322) has the main features for unemployed workers: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.txt.pdf. In addition, U.S. Department of Labor has issued "program letters" that answer many significant questions about applying ARRA's UI provisions. The most important of these is UIPL 14-09 (February 26, 2009): http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2715.

NELP released several documents providing detailed descriptions of ARRA's features and model state implementation legislation in the days following ARRA passage. These as well as any future documents on UI modernization are posted on our website at http://www.nelp.org/index.php/site/issues/category/modernizing_unemployment_insurance .

Jobless workers can go to <www.unemployedworkers.org> to sign up for email updates and to find up to date information on what states are doing to implement ARRA.

For more information contact: Andrew Stettner, Deputy Director, 212-285-3025 x 303 or email <astettner@nelp.org>.