

## Unemployment Insurance Fraud Issues

Under federal and state law, collecting unemployment insurance when eligibility requirements are not met is fraud. There have been concerns that provisions of the CARES Act, most notably the Federal Pandemic Unemployment Compensation (FPUC) under Sec. 2104, may encourage workers to commit UI fraud by not returning to work when recalled or quitting. FPUC provides an extra \$600 a week in unemployment compensation through July 31, 2020. While state workforce agencies are in the front lines of handling fraudulent UI claims, the U.S Department of Labor has a role to play as well.

**Q&As:** In addition, the Department of Labor has posted questions specifically related to eligibility for UI. <https://www.dol.gov/coronavirus/unemployment-insurance#faqs>  
Two of them are specific to returning from a furlough and the \$600 weekly FPUC payment:

- **Question:** I was furloughed by my employer, but they have now reopened and asked me to return to my job. Can I remain on unemployment?

**Answer:** No. As a general matter, individuals receiving regular unemployment compensation must act upon any referral to suitable employment and must accept any offer of suitable employment. Barring unusual circumstances, a request that a furloughed employee return to his or her job very likely constitutes an offer of suitable employment that the employee must accept.

While eligibility for PUA does not turn on whether an individual is actively seeking work, it does require that the individual be unemployed, partially employed, or unable or unavailable to work due to certain circumstances that are a direct result of COVID-19 or the COVID-19 public health emergency. In the situation outlined here, an employee who had been furloughed because his or her employer has closed the place of employment would potentially be eligible for PUA while the employer remained closed, assuming the closure was a direct result of the COVID-19 public health emergency and other qualifying conditions are satisfied. However, as soon as the business reopens and the employee is recalled for work, as in the example above, eligibility for PUA would cease unless the individual could identify some other qualifying circumstance outlined in the CARES Act.

- **Question:** One of my workers quit because he said he would prefer to receive the unemployment compensation benefits under the CARES Act. Is he eligible for unemployment? If not, what can I do?

**Answer:** No, typically that employee would not be eligible for regular unemployment compensation or PUA. Eligibility for regular unemployment compensation varies by state but generally does not include those who voluntarily leave employment. Similarly, to receive PUA, an individual must be ineligible for regular unemployment compensation or extended benefits under state or federal law, or pandemic emergency unemployment compensation, and satisfy one of the eligibility criteria enumerated in the CARES Act, as

explained in Unemployment Insurance Program Letter 16-20. There are multiple qualifying circumstances related to COVID-19 that can make an individual eligible for PUA, including if the individual quits his or her job as a direct result of COVID-19. Quitting to access unemployment benefits is not one of them. Individuals who quit their jobs to access higher benefits, and are untruthful in their UI application about their reason for quitting, will be considered to have committed fraud.

If desired, employers can contest unemployment insurance claims through their state unemployment insurance agency's process. A link to state agency websites can be found here: <https://www.dol.gov/coronavirus/unemployment-insurance#faqs>.

**ETA Guidance:** The Employment and Training Administration (ETA) at the Department of Labor has issued a number of guidance documents on Unemployment Insurance, which are available here: [https://wdr.doleta.gov/directives/corr\\_list.cfm](https://wdr.doleta.gov/directives/corr_list.cfm). Each guidance document includes specific language about UI fraud and makes clear to state agencies the following key points:

- “[Eligibility] requirements include that individuals are only entitled to benefits if they are no longer working through no fault of their own and that individuals must be able and available to work.”
- “States play a fundamental role in ensuring the integrity of the UI program. While states have been provided some flexibilities as a result of COVID-19, those flexibilities are generally limited to dealing with the effects of COVID-19... States must ensure that individuals only receive benefits in accordance with [CARES Act] statutory provisions.”
- “[Q]uitting work without good cause to obtain UI benefits is fraud.”

**Office of Inspector General:** The Department of Labor's Office of the Inspector General (OIG) is tasked with investigating claims of UI fraud. Under the CARES Act, the OIG received \$25 million for this purpose. Anyone suspecting unlawful payment of benefits can contact the OIG hotline at 202-693-6999 or 1-800-347-3756. There is also an on-line form that can be filed to report UI fraud available at: <https://www.oig.dol.gov/hotlinecontact.htm>.