

Radical Inequality, Records, and Recovery

For the more than 70 million adults in the United States with arrest and/or conviction records, unemployment rates have long surpassed Great Depression levels, and are estimated to be nearly five times higher than for other workers nationally.¹ On top of the challenges posed by the current pandemic and unemployment crisis, people with records face multiple structural barriers, including racialized segregation and exclusion in housing, education, health care access, voting access, banking, occupational licensing, and employment.

More must be done to ensure that those released prior to and during the pandemic are not only included in recovery efforts but prioritized. As workplaces continue to close in response to the pandemic, workers with records need access to direct cash funds, safe housing, and medical services. Workers with records who have maintained employment as frontline workers in the crisis need targeted supports, including basics like health and safety protection, the right to refuse unsafe work, and unemployment insurance.

More must be done to ensure that those released prior to and during the pandemic are not only included in recovery efforts but prioritized.

Ultimately, any pandemic recovery plan, federal or otherwise, that does not prioritize the experiences and needs of workers with records and incarcerated people is no recovery plan at all—not from the perspective of economic health, public health,² or racial equity.³

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law. It is intended to provide rapid-response emergency benefits to individuals, small businesses, large corporations, local and state governments, and public health programs. This living document will be updated with any policy changes and is intended to address frequently asked questions regarding working during the pandemic with an arrest and/or conviction record, with a focus on accessing CARES Act programs.

FREQUENTLY ASKED QUESTIONS

- 1. Are people with arrest and/or conviction records eligible for payment under the CARES Act?*
- 2. What is unemployment insurance?*
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- 12. I am not currently incarcerated. I was released from a jail, prison, or immigration detention facility before the pandemic, and was working. I lost my job because my work ended as a result of the pandemic, do I qualify for any benefits?*
- 13. I am currently incarcerated. My work release job where I worked outside of the prison or jail walls ended because of the pandemic. Do I qualify for unemployment insurance or other CARES Act programs?*
- 14. What if I owe child support debt, will that affect my UI or eligibility for CARES Act programs?*
- 15. What if I owe traffic or criminal court debt, will that affect my UI or eligibility for CARES Act programs?*
- 16. If I am called back to work that is unsafe because of COVID-19, can I refuse work and continue to collect UI benefits?*

1. Are people with arrest and/or conviction records eligible for payment under the CARES Act?

- **For workers with records, yes.** If you meet other eligibility criteria, arrest and/or conviction records do not prevent you from collecting unemployment insurance or other programs. These four programs within the CARES Act are directed to individuals and do not exclude those with arrest or conviction records:
 1. Unemployment Insurance (UI),
 2. Pandemic Unemployment Assistance (PUA),
 3. Pandemic Unemployment Compensation (PUC),⁴ and
 4. the Economic Impact Payment (EIP).

- ➔ **For business owners with records, yes and no.** Business owners with arrest and/or conviction records may be excluded from these two CARES Act programs:
 1. Paycheck Protection Program (PPP), and
 2. Economic Injury Disaster Loan (EIDL).

See [Question 8](#) for more information regarding PPP and EIDL. Additionally, it is important to note that business owners may still be eligible for unemployment benefits programs listed above, such as PUA.

Depending on your situation, you may qualify for different or multiple programs under the CARES Act. Note that state unemployment agencies interpret these programs differently. It is important to check your state agency's website for details. Find a list of state unemployment agency websites [here](#).

2. What is Unemployment Insurance?

Regular state unemployment insurance (UI) is facilitated in partnership between the federal government and the states, providing money for unemployed workers while they search for a new job. Unemployment insurance varies by state. States have the power to set program specifications such as eligibility requirements, weekly benefit amounts, and maximum weeks of benefits.

3. Who qualifies for unemployment insurance?

The good news is that **arrest and/or criminal records do not on their own exclude anyone from regular state unemployment insurance (UI)**. The bad news is that many workers are unfairly denied unemployment benefits. Under federal law, all states exclude undocumented people who do not have a Work Authorization Document, and many states exclude workers who are misclassified as independent contractors (sometimes called "gig workers"). As a result of structural racism, some states, particularly states with the largest population of Black workers, have paid the minimum benefits for the minimum amount of time, and have made it more difficult overall to qualify.⁵ Again, these details vary by state. But to be eligible

for UI, all applicants must satisfy the same basic requirements:

- a. They must be involuntarily unemployed, as determined by the state;
- b. They must have enough wages earned or hours worked in their “base period” to establish a claim; and
- c. They must be “able and available” to work, as defined by the state.

Each state and U.S. territory sets its own guidelines for eligibility and the amount of benefits. Find a list of state unemployment agency websites [here](#).

To decide whether you qualify, a state unemployment agency will ask whether you earned a minimum amount of wages during an established period of time, the “base period” (typically the length of the prior year).⁶

Varying by state, the benefit amount is between 40% and 60% of your earnings and will be paid weekly over a period of up to 26 weeks in most states (and as few as 12 weeks in some states). For people who run out of their regular state UI, 13 additional weeks of federal benefits are available under the CARES Act and, for workers in some states, a federal program called Extended Benefits (ranging from 13 to 20 additional weeks, depending on the state).

If you are currently incarcerated, you are unlikely to qualify for UI. The question in determining whether you qualify for regular state UI is whether you are “able and available” to work. In most situations, you will not qualify for unemployment insurance because you are not considered “able and available” for work while incarcerated. There are limited exceptions where UI eligibility varies by state and remains unclear, such as sentences that limit jail time to weekdays or weekends.

If you are not currently incarcerated and lost your job as a result of an arrest, you may qualify for UI. If you were arrested, incarcerated, and subsequently fired from your employment because you were unable to report for work during your incarceration, you may still qualify for UI.⁷ Note that in order to meet the standard of “able and available” when you are applying, you would need to be currently not incarcerated. Other considerations by your state’s unemployment agency can include whether your arrest was related to your employment, workplace policy,⁸ whether or not you are subsequently convicted,⁹ and whether you made effort to notify your employer that you were unable to report to work.

4. How does the CARES Act affect unemployment insurance?

In short, the CARES Act temporarily increases UI benefit amounts and extends the duration of those benefits, through programs called **Pandemic Unemployment Compensation (PUC)** and **Pandemic Emergency Unemployment Compensation (PEUC)**. From March 27 to July 31, 2020, PUC increases UI benefit amounts by \$600 per week. PEUC adds 13 weeks of benefits for workers who have exhausted regular UI. Workers in some states can receive **Extended Benefits** after they exhaust PEUC.

For more info, see NELP's factsheet [here](#).

5. What if I don't qualify for unemployment insurance?

You are not alone. While an arrest and/or conviction record does not disqualify anyone from UI, many people do not qualify for regular unemployment insurance because they failed to meet other eligibility requirements. If you do not qualify for UI, you may qualify for **Pandemic Unemployment Assistance (PUA)**, which is available until the end of 2020. Regardless of whether you qualify for UI or PUA, you may also qualify for the **Economic Impact Payment (EIP)**, which is described below.

6. What is Pandemic Unemployment Assistance, and do I qualify?

Arrest and/or criminal records do not on their own exclude anyone from Pandemic Unemployment Assistance (PUA). PUA provides payment to those left out of regular state unemployment insurance or who have exhausted their state unemployment insurance, **regardless of arrest or conviction records.**

Unlike regular state unemployment, PUA includes self-employed workers, those classified as independent contractors, freelancers, and workers who do not have a long-enough work history to qualify for state unemployment insurance. Some “gig workers,” such as app-based taxi drivers in California, are considered employees, not independent contractors, which means they qualify for regular state UI programs. Other states have excluded “gig workers” from regular state UI—those excluded gig workers would qualify for PUA.

State-level unemployment agencies disburse PUA to individuals. Pandemic Unemployment Assistance is:

- **Available: Authorized to work, have some prior work history, and either you lost work due to COVID-19 OR if you had a job offer that fell through because of COVID-19.** You are eligible for PUA if you are (1) partially or fully unemployed OR (2) unable and unavailable to work, because of one of the following circumstances:
 - You have been diagnosed with COVID-19 or have symptoms of it and are seeking diagnosis;
 - A member of your household has been diagnosed with COVID-19;
 - You are providing care for someone diagnosed with COVID-19;
 - You 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;
 - You have become the main income-earner for a household because the head of household has died as a result of the pandemic;
 - You are quarantined or have been advised by a healthcare provider to self-quarantine;
 - You had to quit your job as a direct result of COVID-19;
 - Your place of employment is closed as a direct result of COVID-19;

- You were scheduled to begin employment but, as a direct result of the pandemic, you are unable to reach the job;
- You had a job offer extended to you, but it was rescinded because of the pandemic; or
- You meet other criteria established by the Secretary of Labor.
- **Available, but challenging: New workers.** PUA examines your work history and can be more challenging to obtain if you have never formally worked before. Even if you never worked before or have limited formally recognized work history, and regardless of arrest or conviction records, you may still be eligible if you can demonstrate you had a job offer that fell through because the business closed or reduced its workforce for reasons related to COVID-19.
- **Not available:** PUA excludes those who are receiving unemployment insurance, and undocumented workers who do not have work authorization.

7. What is the Economic Impact Payment (“stimulus check”), and do I qualify?

Arrest and/or criminal records do not on their own exclude anyone from the Economic Impact Payment (EIP). Of all the new recovery programs included in the CARES Act, **EIP**, often referred to as the “stimulus check,” is intended to reach the most people. However, it is limited to a one-time payment and still excludes many. The EIP one-time payment is income-based and eligibility is met **regardless of work history or arrest and conviction records.** The Economic Impact Program is:

- **Not available: Undocumented people and potentially their spouses.** The EIP excludes those without a social security number, those who filed a joint tax return with a spouse who does not have a social security number, and those who are not categorized as US citizens or permanent residents and do not have an Employment Authorization Document.
- **Available, but potentially challenging: Non-filers.** It may be challenging to obtain this payment if you did not or were not required to file a 2018 or 2019 federal tax return. See: <https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>. Approximately 20% of adults in the United States do not have access to a bank account, posing another potential challenge to receiving EIP.

Automatic: The EIP includes people who reported earnings within the income cap in their most recent federal tax return (see [Question 8](#) for details). It includes those who filed a 2018 or 2019 federal tax return, or those who receive Social Security (including Social Security retirement benefits, Social Security disability insurance benefits, or Supplemental Security Income benefits). Those who have bank accounts and set up direct deposit with the IRS previously are not required to do anything in order to receive this payment. You can contact the IRS about the status of your EIP payment at (800) 919-9835 and find further information here: <https://www.irs.gov/coronavirus/economic-impact->

[payment-information-center](#).

8. I am currently incarcerated, do I qualify for the Economic Impact Payment (“stimulus check”)?

If you are currently incarcerated, you may qualify for EIP relief. On September 24, 2020, a federal judge ordered the IRS stop denying CARES Act payments (including the EIP) on the sole basis of incarceration. This means that if you are currently incarcerated (or recently released), you likely qualify for EIP relief. If you did not file a 2018 or 2019 tax return (or were not required to), you can take one of the following actions:

- ❑ If you have internet access, you may file your claim (or a claim on behalf of your incarcerated loved one) here by November 21, 2020:
<https://www.irs.gov/coronavirus/non-filers-enter-payment-info-here>.
- ❑ If you do not have internet access, you may file your 2019 IRS tax return via mail, postmarked by November 4, 2020. IRS addresses vary by region. Several groups on the outside are mailing blank IRS tax return forms and instructions to incarcerated loved ones.

These deadlines may be extended (and have been already). For the most up-to-date information concerning EIP relief for incarcerated people, and a detailed FAQ (including links to print out tax return forms for your incarcerated loved ones) please visit this page: <https://www.lieffcabraser.com/cares-act-relief/>.

9. What if I own a small business, what CARES Act programs do I qualify for?

Given the unfair challenges to people with arrest or conviction records in finding good work, many people with records own their own businesses. The CARES Act created the **Paycheck Protection Program (PPP)** and expanded the **Economic Injury Disaster Loan (EIDL)** program to help business owners. Both programs are supervised by the federal Small Business Administration, but the PPP is distributed through private banks. The PPP is intended to rapidly provide small businesses forgivable loans through private banks to help employers keep their employees. The EIDL is a longstanding loan program authorized to provide loans up to \$2 million to small businesses.

PPP is **not available** to businesses with an owner of 20% or more of the equity who:

- Is presently incarcerated or has an open felony case;
- In the last 5 years has been convicted, pleaded guilty, pleaded no contest (“nolo contendere”), been placed in pretrial diversion, or been placed on any form of parole or probation as a result of a felony conviction of fraud, bribery, embezzlement, or false statement in a loan application or an application for federal financial assistance; or
- Within the last year has been convicted, pleaded guilty, pleaded no contest, been placed in pretrial diversion, parole, or probation in any other felony.¹⁰

While the **EIDL** has formal eligibility requirements,¹¹ the Collateral Consequences Resource Center reports that in practice the SBA is currently denying EIDL relief to applicants who have **ever been arrested for a felony** or who have **been arrested for a misdemeanor in the past 10 years**.¹²

Note too, that many self-employed people additionally qualify for the PUA program.

10. How will the money for UI and the CARES Act programs be calculated?

For **regular state unemployment insurance**, see [Question 2](#).

The CARES Act temporarily supplements unemployment insurance payment amounts (including **PUA** payments) and extends the duration of those payments through **Pandemic Unemployment Compensation (PUC)**.

From March 27, 2020, through July 31, 2020, PUC supplements a flat amount of \$600 per week to those on unemployment insurance (UI), including those on partial UI, and those on PUA.

Payments under **PUA** will have a minimum benefit that is equal to one-half the state's average weekly unemployment insurance payment (approximately \$190 per week).¹³ The **PUA** program runs from January 27, 2020 through December 31, 2020. **Those who qualify will be eligible for retroactive payments and can access payments for a maximum of 39 weeks**, including any weeks for which the person received regular unemployment insurance.

EIP is calculated based on your income as filed with the IRS, with a maximum of \$1,200 per adult and \$500 per child. For individuals who qualify and reported earning less than \$75,000 per year, you will receive \$1,200. If you reported earning between \$75,000 and \$99,000 per year, you will receive less than \$1,200 under a "5% phase out."¹⁴ Individuals earning more than \$99,000 and married couples earning more than \$198,000 do not qualify for EIP.

11. I am not currently incarcerated. I have been recently released from jail, prison, or an ICE detention facility, do I qualify for unemployment insurance for the labor I performed while I was incarcerated?

No. Generally, work performed while incarcerated is statutorily excluded from "employment" under the Federal Unemployment Tax Act.¹⁵ This means that most incarcerated work will not be counted towards unemployment insurance benefits, including incarcerated work performed for private companies through the Prison Industry Enhancement program.

However, there are **exceptions in certain states** where UI eligibility remains unclear, such as prison work release programs where work occurs outside the prison.¹⁶ Other states deny such claims outright.¹⁷ If your work release earnings

were found to be eligible by your state’s unemployment agency, earnings from work release programs may be used to determine whether you earned enough to qualify for UI, and how much your benefit would be. [line break here]

Additionally, it is unlikely that earnings from working in a work release program alone would meet the minimum amount required to be eligible for UI. But, in this case, work release program wages could possibly be counted for **PUA** purposes if you were released—and thus lost your work release job—as a result of the pandemic (see [Question 6](#) above). Guidance issued by the U.S. Department of Labor on July 21, 2020, announced that since a **currently incarcerated** person is not “otherwise able and available to work... because of his or her incarcerated status,” losing their work release job due to COVID-19 while incarcerated would make them ineligible for **PUA**. However, persons who are currently **not incarcerated**, and lost their work release job as a result of being released from incarceration because of the pandemic, may remain eligible for **PUA**.¹⁸ Note that since the wages earned while incarcerated would be so low, most likely you would receive the minimum PUA.¹⁹ Again, in this case, any earnings made through employment after incarceration could be combined with work release wages to determine your benefit amount.

12. I am currently not incarcerated. I was released from a jail, prison, or immigration detention facility before the pandemic, and was working. I lost my job because my work ended as a result of the pandemic, do I qualify for any benefits?

Yes. If you do not qualify for unemployment insurance (and the additional PUC) because you did not meet the minimum wages amount (see [Question 3](#)), you would qualify for **PUA** since you lost your job due to the pandemic (see PUA factors in [Question 6](#)).

13. I am currently incarcerated. My work release job where I worked outside of the prison or jail walls ended because of the pandemic. Do I qualify for unemployment insurance or other CARES Act programs?

Possibly. Like the answer to Question 10 above, if you are **currently incarcerated** and you lost your job outside of the prison or jail walls because **your work release job ended as a result of the pandemic**, you may qualify for **unemployment insurance** (and the additional **PUC**). While some states outright deny claims for unemployment insurance related to work release, it is less clear in other states.²⁰ It is unlikely that earnings from working in a work release program alone would meet the minimum amount required to be eligible for UI. However, that determination could also include any qualifying employment prior to incarceration within the “base period.” Consider contacting a legal service organization to inquire about work release eligibility for unemployment insurance in your state.

On July 21, 2020, the U.S. Department of Labor issued [guidance](#) announcing that incarcerated persons who are no longer working in a work release program because the jail closed the program due to COVID-19 are not eligible for **PUA**. However, depending on the state, that incarcerated person may remain eligible for **unemployment insurance** (and the additional **PUC**).

14. What if I owe child support debt, will that affect my UI or eligibility for CARES Act programs?

Generally, consider contacting a legal service organization (or the child support agency directly) to inquire about requesting or filing a motion to suspend child support. The CARES Act does not cancel or suspend child support debt.²¹

EIP: While the CARES Act provides that Economic Impact Payments cannot be offset for past due debts to federal agencies, past due state income tax debt, or unemployment compensation debt, it does not exempt those with past-due child support. Those who owe past-due child support may have their entire EIP intercepted by the IRS under the Federal Income Tax Refund Offset Program.

If you receive Temporary Assistance for Needy Families (cash aid) or your child support debt is a result of Title IV-E foster care, the IRS will not intercept your EIP in any amount unless you owe more than \$150 in past-due support.²²

UI: Typically, a child support order is not automatically reduced or suspended when a parent who has been ordered to pay support becomes unemployed. However, if you are receiving UI and have an active support order, the child support agency can send a withholding order to the state UI agency asking that the agency withhold the child support amount from your UI before disbursing the funds to you. If this happens, child support payments may be deducted from your weekly benefit amount.

PUA: Child support obligations may be deducted from PUA payments in the same way that they are to regular UI benefits.²³

15. What if I owe traffic or criminal court debt, will that affect my UI or eligibility for CARES Act programs?

Civil and criminal debt owed to the state will not result in direct interception of EIP, UI, or PUA payments. However, states and counties have a variety of new policies related to traffic and criminal court debt. The Fines and Fees Justice Center maintains [a state by state tracker](#) of COVID-19-related fines and fees suspensions. Additionally, if your court sold or otherwise contracted your debt to a private collections agency, the CARES Act does nothing to suspend or cancel the collections agency from pursuing the debt.

16. If I am called back to work that is unsafe because of COVID-19, can I refuse work and continue to collect UI benefits?

If you refuse to return to your same job after being called back to work by the employer, normally you would not be allowed to continue collecting UI because you must accept work that is considered “suitable” by the state UI agency. But if the employer has not taken the necessary health and safety precautions to protect its workers against COVID-19, or if you are an older worker or someone who is immunocompromised (for example, you have diabetes, heart disease, or asthma), you may be able to refuse the offer to return to work and continue to collect UI. However, the state UI agency will make the final decision. The state unemployment agency will consider whether you first contacted the employer to explain your concerns and made a reasonable effort to address the situation with the employer. For more information about the safety precautions that employers should be taking to protect their workers against COVID-19, see the Centers for Disease Control and Prevention’s COVID-19 workplace [guidelines](#).

Endnotes

- 1 Over 70 million adults in the U.S. have an arrest and/or conviction record. Beth Avery, National Employment Law Project (NELP), State and Local Ban the Box Guide (July 1, 2019), <https://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/>; Lucius Couloute and Daniel Kopf, Prison Policy Initiative, Out of Prison and Out of Work (July 2018), <https://www.prisonpolicy.org/reports/outofwork.html>.
- 2 E.g., Elizabeth Weill-Greenberg, New York City Jails have an Alarming High Infection Rate According to an Analysis by the Legal Aid Society (March 26, 2020), <https://theappeal.org/new-york-city-jails-coronavirus-covid-19-legal-aid-society/>; The Legal Aid Society, COVID-19 Infection Tracking in NYC Jails (Updated weekly), <https://legalaidsoc.org/covid-19-infection-tracking-in-nyc-jails/>; The Leadership Conference on Civil and Human Rights, Governors, Mayors, and Sheriffs Must Reform Jail and Detention Practices During COVID-19 (March 23, 2020), <https://civilrights.org/2020/03/23/governors-mayors-and-sheriffs-must-reform-jail-and-detention-practices-during-covid-19/>.
- 3 Thanks to the visionary work of grassroots reform and abolitionist movements, there is broad recognition that every level of the criminal legal system — from the likelihood of an initial encounter with law enforcement to sentencing—is defined by racial and class inequality. When we talk about records, we are talking about how criminal records are used by employers as an anti-Black proxy for race (e.g., Phil Hernandez, Ban the Box “Statistical Discrimination” Studies Draw the Wrong Conclusions, NELP (August 29, 2017), <https://www.nelp.org/blog/ban-the-box-statistical-discrimination-studies-draw-the-wrong-conclusions/> (responding to “statistical discrimination” critiques of ban the box policies); Maurice Ensellem and Beth Avery, Racial Profiling in Hiring: A Critique of New “Ban the Box” Studies, NELP (August 11, 2016), <https://www.nelp.org/publication/racial-profiling-in-hiring-a-critique-of-new-ban-the-box-studies/> (reviewing critiques of ban the box policies); Devah Pager, The Mark of a Criminal Record, *American Journal of Sociology* 108, 937-975 (March 2003), <https://scholar.harvard.edu/pager/publications/mark-criminal-record>). Whether such racialized exclusions by employers are intentional or not is besides the point. Our takeaway as workers’ rights advocates is the same: in order to both help grow worker power and upend radical income inequality in the U.S., advocates must contextualize policy reform within an explicit framework of anti-racism and racial equity.
- 4 Pandemic Unemployment Compensation (PUC) and “Pandemic Emergency Unemployment Compensation” (PEUC) both temporarily expand regular unemployment insurance. For simplicity, both are programs are summarized and referred to as “PUC” in this and other NELP documents.
- 5 See figures and tables, Michele Evermore, NELP, The Unemployment Pandemic: Addressing America’s Job Crisis (Hearing before the U.S. House of Representatives’ Committee on Oversight and Government Reform, Select Subcommittee on the Coronavirus, June 18, 2020), <https://s27147.pcdn.co/wp-content/uploads/Unemployment-Pandemic-Job-Crisis-Testimony-Michele-Evermore-June-2020.pdf>.
- 6 This requirement disadvantages workers with inconsistent or part-time employment during the base period, including formerly incarcerated people. As a result of centuries of occupational segregation and hiring discrimination in the U.S., this requirement structurally disadvantages women and people of color.
- 7 Illinois, for example, considers applicants potentially eligible for UI who were “separated from [their] employer as a result of the

- individual’s detention, incarceration or imprisonment under State, local, or federal law.” Illinois Unemployment Insurance Act, Section 2765.330.
- 8 See, e.g. *Hale v. Neeley*, 335 S.W.3d 599, 603 (Tenn. Ct. App. 2010) (finding that employee’s failure to notify Walmart of his conviction within three days as prescribed by Walmart’s policy was disqualifying misconduct).
- 9 See, e.g. A-750-2031, NYS DOL Unemployment Insurance Division Adjudication Services Office, <https://labor.ny.gov/ui/aso/20.htm#2031> (finding that “discharge because of absenteeism caused by court appearances resulting from claimant’s arrest for an offense committed outside the course of employment is misconduct, if the claimant ultimately is convicted of the offense, since the absence is a result of claimant’s own act and not from circumstances beyond his control”).
- 10 Collateral Consequences Resource Center, SBA Rolls Back Many Criminal History Barriers Just Before Deadline (June 24, 2020), <https://ccresourcecenter.org/2020/06/24/sba-rolls-back-many-criminal-history-barriers-just-before-deadline/>; Small Business Administration Paycheck Protection Program Additional Revisions to Final Interim Final Rule, 85 Fed. Reg. 118, 36717 (June 12, 2020), <https://home.treasury.gov/system/files/136/PPP-IFR--Additional-Revisions-to-First-Interim-Final-Rule.pdf>; Paycheck Protection Program Loans Frequently Asked Questions (June 25, 2020), <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf>.
- 11 The EIDL is formally unavailable to businesses whose principal owner who has been convicted in the past year of a felony related to a riot, civil disorder, or other declared disaster; businesses with “an associate who is incarcerated, on probation, on parole, or has been indicted for a felony or a crime of moral turpitude; or businesses whose principal owner who is presently on parole or probation following conviction of a “serious criminal offense.”
- 12 Collateral Consequences Resource Center, Is SBA Denying Disaster Relief Based Only on an Arrest? (May 6, 2020), <https://ccresourcecenter.org/2020/05/06/is-sba-denying-disaster-relief-based-only-on-an-arrest/>.
- 13 PUA payments are calculated the same way as they are for the federal Disaster Unemployment Assistance program under the Stafford Act.
- 14 For example, if your income is \$84,000, you are \$9,000 above the \$75,000 limit. Your EIP would be reduced by \$450 (\$9,000x 5%). Your EIP would be \$750. Internal Revenue Service, Economic Impact Payment Information Center (July 6, 2020), <https://www.irs.gov/coronavirus/economic-impact-payment-information-center>; Internal Revenue Service, How Do I Calculate my EIP? (April 27, 2020), https://www.irs.gov/pub/irs-utl/how_do_i_calculate_my_eip.pdf.
- 15 26 U.S.C. § 3306(c)(21)
- 16 In Massachusetts, for example, at least one court ruled that a former inmate who participated in a work release program while incarcerated involving employment outside the prison walls was eligible for UI when he was released (and the job ended). *Dawson v. Cunningham*, et al., Boston Municipal Court, Civil Action No. 1501 CV 2126, (McKenna, J.) (August 9, 2016) (reversing the Board decision on which DUA relied in UIPP #2016.03).
- 17 Wisconsin’s Department of Workforce Development, for example, has interpreted the state’s relevant statute to mean that “inmates will be unable to use these [work release] wages to collect UI benefits if they are later released from prison and unemployed.” Wisconsin Department of Workforce Development, Plain Language Summary of 2013 Wisconsin Act 36 and 2013 Wisconsin Act 11, <https://dwd.wisconsin.gov/uibola/pdf/plainlang2013.pdf>; WI Statute § 108.02 (15)(kt).
- 18 United States Department of Labor, Unemployment Insurance Program Letter No. 16-20 Change 2 (July 21, 2020) https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5479
- 19 Your application will likely be treated by state unemployment agencies like others with limited wages, and you could be eligible to receive the minimum PUA payment in your state (1/2 of the state’s average weekly unemployment insurance payment—which averages \$190 nationally—plus the \$600 PUC payment).
- 20 Ongoing federal litigation in Maine, for instance, seeks to restore unemployment benefits to incarcerated workers whose jobs ended as a result of the current pandemic. To avoid confusion, please note that the copy of the complaint linked below contains a typo confusing Pandemic Unemployment Compensation (PUC) for Pandemic Unemployment Assistance (PUA). The Department of Labor has announced guidance that makes incarcerated workers ineligible for PUA, but has not announced guidance that would make incarcerated workers ineligible for PUC. *Sparks v. Mills et. al.*, 2:20-CV-190-LEW D. Me. (June 2, 2020), <https://www.classaction.org/media/sparks-v-mills-et-al.pdf>.
- 21 To find your local legal aid organization, please visit Legal Services Corporation, <https://www.lsc.gov/what-legal-aid/find-legal-aid>.
- 22 Office of Child Support Enforcement, Economic Impact Payments under the CARES Act (April 13, 2020), <https://www.acf.hhs.gov/css/resource/economic-impact-payments-under-the-coronavirus-aid-relief-and-economic-security-cares-act>.
- 23 The amount of PUA may be offset by any: “a. Debt due the United States from the applicant; b. Child support obligations (or any custodial parent obligations) being enforced under Title IV-D of the Social Security Act; and c. Food stamp over-issuances if the State makes such offsets under its State Unemployment Compensation program. This deduction is applicable to all state and Federal Unemployment Compensation programs.” Other than listed above, the offset of PUA for the payment of any debt of the applicant to any other entity or person shall not be permitted.