

Unemployment Insurance

Employer Handbook for COVID-19

April 13, 2020

Kentucky Business Community,

Thank you so much for reaching out to the Education and Workforce Development Cabinet (EWDC) and for the care and concern you are showing your workers at this time. We appreciate you and we appreciate them. For your convenience, we are continually updating the Kentucky Career Center website at <https://kcc.ky.gov/Pages/default.aspx> with UI information, so we recommend using that site.

Our cabinet serves in a unique position of having two customers: the employer community and individual workers and job seekers around the state. We want to serve both of them well. During this unprecedented time, we have an all hands on deck approach to make sure these services are delivered as efficiently as possible to those who need them the most.

When Gov. Andy Beshear says that we're in this together, we truly believe that. Our cabinet is committed to providing expanded unemployment insurance (UI) benefits to Kentuckians experiencing job loss as a result of COVID-19 and supporting employers in this difficult time for business and industry.

Below you will find UI information and a sampling of questions our staff have received from businesses like yours. If you don't find an answer to your question, please email us at Workforce@ky.gov and one of our staff will assist you.

Sincerely,

Josh Benton
Deputy Secretary
Kentucky Education & Workforce Development Cabinet

Unemployment Insurance

Employer Handbook for COVID-19

TABLE OF CONTENTS

What policies have been waived or changed?	Pages 3-4
Filing or Responding to a Claim, Mass filing through E-Claim	Page 5
Workshare / Reduction of Hours	Page 6
Calculating Unemployment Benefits	Page 7
Employer Accounts or Employer Costs	Page 8
Severance or Supplemental Pay or Benefits	Page 8-9
Federal CARES Act	Page 9-10
Furlough vs. Lay-Off vs. Reduction of Hours / Workshare	Page 10
Who is Eligible?	Pages 10-12
Return to Work	Page 12-13

What policies have been waived or changed?

- ❖ **The following policies have been temporarily waived during the COVID-19 state of emergency for workers who have been laid off.**
 - **One-week waiting period to file for unemployment insurance**

Under normal circumstances, a person must wait one week before filing for unemployment insurance (UI) benefits. This means that the claimant's first UI check would be for only one week of wages. Now, people who are laid-off because of COVID-19 will receive two weeks of benefits in their first UI payment.
 - **Able and available to work requirements**

Normally, a laid-off worker must be physically able, available and ready to work to get UI benefits. Currently, workers who have COVID-19; believe they have been exposed to COVID-19 and are self-quarantined; or are caring for a family member affected by COVID-19 do not have to meet this requirement.
 - **Job-search requirement**

Under the COVID-19 state of emergency, job search requirements are temporarily waived for all UI recipients.
 - **Suitable work**

Under normal circumstances, someone receiving UI benefits is expected to accept a job that offers comparable wages to his most recent employment and work duties that align with his education level and work experience. That requirement is temporarily waived.
 - **Good cause provisions**

Kentucky Office of Unemployment Insurance (OUI) officials are making individuals eligible for benefits who left work due to a reasonable risk of exposure to infection (self-quarantine) or to care for a family member affected by the virus.

- ❖ **The following changes have been enacted temporarily during the COVID-19 state of emergency for employers and self-employed people.**
 - **Expanded UI benefits**

Kentucky officials have expanded UI benefits to people who are not typically covered but have been laid off or have seen reduced hours or wages because of COVID-19, including but not limited to self-employed, gig workers, independent contractors, employees of religious institutions/non-profits and childcare workers.
 - **Mass Layoff Claims**

Smaller businesses can now file a mass layoff for UI benefits for their employees through Electronic Claim (E-Claim). Due to COVID-19, companies with as few as 50 employees that are laying off a minimum of 15 workers can now use this method to file a mass claim on behalf of their employees. Under this option, the laid-off workers will not be required to file individually.
 - **Reduced employee hours**

The **workshare** program allows employers to avoid laying off employees by reducing employee

Unemployment Insurance

Employer Handbook for COVID-19

hours rather than laying-off. The affected employees receive pay for the hours they work and UI benefits for the remainder of their normal hours. Employees who have not been terminated or separated from employment but have a reduction in work hours or a reduction in pay of more than 10% but less than 60% can participate in the program.

- **Employer taxes**

UI claims that are paid during the COVID-19 pandemic will not be charged to employer accounts and future employer tax rates will see a negligible impact to taxes because of COVID-19 UI.

❖ CARES Act/Pandemic Unemployment Assistance (PUA)

- Beginning the week of March 29, 2020, UI recipients will be eligible for an additional payment of \$600.
- UI duration has been expanded from 26 weeks to 39 weeks.
- Individuals who have exhausted their UI benefits since July 1, 2019, may qualify for an additional 13 weeks of payments.
- In addition to those who do not typically qualify, individuals with limited work history now qualify.

❖ Additional Information

- Currently, individuals recently made eligible for UI may receive system notifications stating their claim is monetarily invalid or denied. Despite these notifications, their claim is being processed for payment. Claimants will receive notification that their claim is being processed. These individuals do not need to reapply.
- The first two-week payment to individuals will be made automatically. Individuals do not have to start requesting a UI benefit until the second two-week payment. After that, they will request a payment every two weeks.
- System and application updates are being conducted daily to improve the application process.
- The weekly benefit amount for individuals who do not typically qualify will be their calculated UI amount or \$180, whichever is higher, plus \$600.
- Individuals who are fired or who quit are not eligible for benefits. Please note that the law allows workers to receive benefits if they have a reasonable fear of contracting COVID-19, or they must care for a family member because of COVID-19. HOWEVER, if the employer offers reasonable accommodations or provides a telecommuting option, employees must accept this option. If an employee still refuses to work in that scenario, this will be deemed a quit.
- An individual with a limited work history must prove a connection to the workforce in order to be eligible. Even seasonal employment counts as a connection to the workforce as long as that work was performed at a substantial level (i.e. summer lifeguard, seasonal work at a distribution center, or in retail).

Unemployment Insurance

Employer Handbook for COVID-19

Filing or Responding to a Claim

Mass filing through E-Claim

❖ How do I file a mass claim (E-Claim) for my employees?

If you employ at least 50 employees in total, and 15 or more employees will be laid off, you are a good candidate for our E-Claim filing process.

You can file on behalf of all employees. OUI will continue to verify unemployment claims with employers, but the individuals being laid off will not file separate claims. The laid-off workers will receive information on their benefits package after the employer files an E-Claim.

To initiate the filing, the employer needs to:

1. Download this Excel file [E-Claim Template](#)
2. Fill out the template
3. Draft an email summarizing the details of the layoff, attach the completed template to the email
4. Send the email to Uleclaims@ky.gov to officially submit it to the Office of Unemployment Insurance (OUI)

Resources

- ❖ [Employer Information E-Claim Guide](#)
An overview of the E-Claim process and requirements for employers and claimants
- ❖ [Employer Directions Submitting E-Claim File](#)
Instructions to complete the actual E-Claim File using the excel “E-Claim Template”
- ❖ [E-Claim Data Error Reporting](#)
Steps to take in the event of incorrect data or an E-Claim error
- ❖ [Employer Claimant Directions](#)
An example of the document the claimant will receive once the E-claim is processed
- ❖ [UI Debit Card Info](#) for employees.

If you have any questions, please feel free to contact Mass Electronic Claim for Unemployment Insurance at 502-564-2369 or Uleclaims@ky.gov.

Workshare or Reduction of Hours

❖ **If we continue to employ some full-time employees on a part-time basis, can they be compensated with UI and if so how is that determined?**

Kentucky is allowing UI benefits to be paid to employees who are experiencing a severe shortage in their work hours. Some call this a **workshare program**. This is an option for Kentucky employers to pursue in lieu of a complete layoff. This means that if an employer is trying to keep employees during the pandemic, but it comes at the cost of reduced hours or pay, the employer can participate in a workshare program. With that reduction of hours, it would be a combination of the company paying the individual and the individual receiving UI benefits for their reduced time. Furthermore, employers must continue to provide benefits (health insurance, etc.) if they already provided benefits.

With the workshare option, employees report their gross earnings during the week they are earned and OUI reduces the workers' weekly UI payment by a pro rata portion of their gross earnings reduction.

If the employer qualifies for and is interested in using the workshare option, OUI can process it through our Workshare team, similar to the E-Claim process.

In addition, under the CARES Act, those approved for UI benefits will receive a separate payment each week for \$600 from the federal government. Eligibility for the \$600 payment began the week of March 29, 2020. Claimants enrolled in UI will receive the weekly UI benefit amount for which they qualify plus a separate payment of \$600.

For example, if a claimant qualifies for a UI benefit payment of \$320 per week plus a separate CARES Act payment of \$600, the total monthly amount will be \$920 per week. Under the CARES Act, the \$600 payment is paid 100% by the federal government and will not be charged to employer accounts.

Calculating Unemployment Benefits

❖ How can we estimate how much an employee will receive in unemployment benefits?

An employee may estimate his/her weekly benefit amount by going to <http://apps.kcc.ky.gov/career/WuiCalculator.aspx> and following these steps.

- Enter earnings into the appropriate quarters,
- Log into account 24 hours after submitting a claim, and
- Go to the Account Summary page to see benefit amount.

NOTE: If the claimant has wages from an out-of-state employer or is employed by the federal government, those wages may not be reflected immediately.

The maximum benefit amount that Kentucky pays on an UI claim is \$552 per week. UI weeks run from Sunday to Saturday. A claim is paid in two-week increments but each week is viewed separately.

If a claimant is laid off, he/she would indicate that status when filing a claim for benefits. If the claimant's hours have been reduced, he/she would indicate that during the claim filing. If the employer works the claimant two days between Sunday and Saturday, the claimant would report the earnings during the week the wages were earned, not when the wages were received.

❖ Has the weekly maximum unemployment pay increased or the total number of weeks increased during this pandemic?

The maximum benefit amount that Kentucky pays for UI benefits has not changed. It is \$552 per week.

However, under the CARES Act, those approved for UI benefits will receive an additional \$600 weekly benefit from the federal government. Eligibility for the \$600 payment began the week of March 29, 2020. Claimants enrolled in UI will receive the weekly UI benefit amount for which they qualify plus a separate payment of \$600.

The number of weeks a claimant can receive UI benefits has been expanded from 26 weeks to 39 weeks.

❖ We have an employee who lives in Illinois but works at our company in Kentucky. Would this employee draw unemployment benefits through Kentucky or Illinois?

To receive UI benefits, the employee should file a claim with the UI program in the state where he/she worked.

Unemployment Insurance

Employer Handbook for COVID-19

Employer Accounts or Employer Costs

- ❖ **How does an employee claiming unemployment benefits due to COVID-19 affect the businesses' employer tax rate? Will unemployment be charged against the employer during this time period? How will the cost for the employer UI be determined?**

During the COVID-19 state of emergency, there have been changes to the employer tax rate, too. Since OUI is considering the coronavirus outbreak's effects as a temporary situation, employer accounts will not be charged for the loss of employee jobs during the state of emergency. UI claims will have, at most, a negligible impact on employer tax rates because of the pandemic.

On the federal side, under the CARES Act, the \$600 payment will be paid 100% by the federal government and will not be charged to employer accounts.

What really impacts the employer tax rate is the health of Kentucky's UI trust fund. The state is taking every measure possible to keep the trust fund healthy and to keep employer tax rates low. The upcoming federal stimulus package will include cash injections into states, which will in turn go in part to UI trust funds and help maintain low tax rates for employers.

Severance or Supplemental Pay or Benefits

- ❖ **We will be using supplemental unemployment benefits (SUB) for teammates with a plan to pay hourly teammates 80% (unemployment+ employer SUB pay = 80%) and salary paid 100%.**

If we did have a temporary shutdown, could we provide those employees affected with a lump sum payment of a portion of their wages and have this not affect their unemployment benefits?

The way an employer structures the "benefit pay" or "supplemental pay" can affect the UI benefit.

Payment of earned benefit time is considered reportable and deductible income. Whatever the employee's benefit is, the value of the PTO will be deducted and that determines his/her benefit amount. Depending on the value of the earned benefit time, the payment may potentially dramatically reduce the benefit amount.

If the employer shuts down temporarily and decides to pay the employees their normal weekly pay, it is not considered severance pay. This will be viewed and ruled as a full-time employed status and the claimant would not receive benefits.

Some employers are providing supplemental pay. In this situation, the employee is off work temporarily and receives UI benefits, and the employer is paying the employee money to make up for the

Unemployment Insurance

Employer Handbook for COVID-19

employee's loss in income. **If the employer is offering supplemental payments to make up an employee's salary, it is not deductible from unemployment and does not need to be reported.**

❖ **Can we continue to pay for certain benefits such as health insurance in either case?**

If an employer laid off an employee, then the employee is considered separated from the business. Employers should check with their benefits administrator to determine if they can continue to pay health insurance.

Employers enrolled in a workshare program must continue to provide benefits (health insurance, etc.) if they already provided benefits.

❖ **If we are laying people off temporarily or furloughing them, do we have to pay out the paid time off (PTO) they have accumulated before they are eligible for UI benefits?**

An employer does not have to pay out PTO if the employee will be returning to work. Payment of earned benefit time is considered reportable and deductible income. Whatever the employee's UI benefit is, the value of the PTO will be deducted and that determines the employee's benefit amount. Depending on the value of the PTO, the payment may potentially dramatically reduce the employee's benefit.

Federal CARES Act

❖ **How does the additional \$600 weekly benefit from the CARES Act factor into the employee's overall weekly benefit? Will UI payments be increased by \$600 per week and when?**

Under the CARES Act, those approved for UI benefits will receive a separate payment each week for \$600 paid by the state but funded by the federal government. Eligibility for the \$600 payment began the week of March 29, 2020. Claimants enrolled in UI will receive the weekly UI benefit amount for which they qualify plus a separate payment of \$600.

❖ **Are employees participating in a workshare (or reduction of hours) situation eligible for the additional \$600 weekly benefit from the CARES Act?**

Yes

❖ **An employee has worked part-time over the past year and typically would not qualify. Can that employee apply?**

Unemployment Insurance

Employer Handbook for COVID-19

Yes. Under the CARES Act those who have worked part-time over the past year will now qualify for Pandemic Unemployment Assistance (PUA). The weekly benefit amount for individuals who do not typically qualify will be their calculated UI amount or \$180, whichever is higher, plus \$600 from the CARES Act.

Furlough vs. Lay-Off vs. Reduction of Hours/Workshare

- ❖ **What is the difference between a lay-off, furlough, workshare, and a reduction of hours?**

Is there a benefit to placing the employee on a furlough (unpaid leave) versus termination (layoff) with the intention to rehire? Will that impact their unemployment benefit?

This is up to the employer and the employee.

A furlough, or temporary layoff, is a short time of leave with the anticipation of being hired back -- no hours, no job for a set period of time. A layoff is permanent and there is no return to work option. Workshare is a reduction in hours, you still have a job, you're just not working as many hours or your wages have been reduced.

Kentucky is allowing individuals to file for UI benefits in all three of these situations and they can use the same process to file. Employers with at 50 employees who is laying off 15 or more employees, can use the E-Claim process. Please see the instructions above then send an email to Uleclaims@ky.gov to get that process started.

Who is Eligible for Unemployment Insurance Benefits?

- ❖ **I am trying to find information about people who are usually exempt from getting UI benefits but due to the current situation are now eligible. I know that church childcare workers are able to get unemployment now, but what about other positions like substitute teachers or nonprofit workers? If they have been laid off due to the virus are they eligible for benefits. Is there anything that can be done for the self-employed, business owners, contractor, etc.?**

UI has been expanded to those who do not normally qualify. This includes the self-employed, independent contractors, freelance workers, those who work in organizations that don't pay into the UI tax system. For example, a childcare worker whose facility is attached to or located within a church now qualify.

Unemployment Insurance

Employer Handbook for COVID-19

It also includes people leaving employment because of COVID-19 due to reasonable risk of exposure (self-quarantine) and caring for a family member affected by COVID-19.

Anyone who is unemployed as a result of the COVID-19 pandemic is encouraged to file an UI claim.

Furthermore, under the CARES Act, those who have worked part-time over the past year will now qualify for UI.

Please note that Kentuckians recently made eligible for UI (independent contractors, gig-economy workers, childcare workers, etc.), may receive messages during the application process stating that they are monetarily invalid or have no claimable wages. The UI system is still being updated to accommodate recent eligibility changes and despite these messages, the employee's claim is being processed. All individuals recently made eligible who have applied for benefits will be notified of their claim status.

❖ **Would associates who request to stay home for COVID-19 related issues (no childcare, immunocompromised, etc.) be eligible for unemployment?**

Kentucky has increased UI eligibility. Every state has parameters for what constitutes a good reason for receiving UI. Now, leaving one's job in order to self-isolate or to care for ailing family members or a lack of childcare, is a valid, qualifying reason to receive UI. You can list COVID-19 as the reason for the lay-off.

Anyone who is unemployed or underemployed as a result of the COVID-19 pandemic is encouraged to file a UI claim.

❖ **Are associates eligible for unemployment if there is no available work but they still have available PTO to use? Should employees be asked to use PTO time before filing for unemployment?**

This answer, largely depends on employer HR policies and guidance as well as state wage and hour laws. In unemployment insurance eligibility, there is no requirement that employees use PTO before claiming unemployment insurance.

❖ **An employee is eligible for UI benefits during a two-week quarantine. If they return to work for two-weeks but then they are off again for two-weeks, can they still receive benefits without reapplying and waiting for UI compensation?**

Yes. They will need to re-open their claim.

❖ **What if an employee refuses to or cannot return to work when recalled, do they still get unemployment?**

Kentucky has increased UI eligibility. Every state has parameters for what constitutes a good reason for receiving UI. Currently, leaving one's job in order to self-isolate or to care for ailing family members is a

Unemployment Insurance

Employer Handbook for COVID-19

valid, qualifying reason to receive UI. If the employer offers reasonable accommodations or the opportunity to telecommute, then the employee must continue to work if work is offered.

The employee will continue to draw benefits until the employer begins operations. If the employer recalls employees and an employee refuses to return to work then one of two possibilities occurs: First, if the state of emergency is lifted, then the employee must return to work. Second, if the employer recalls employees, but has made reasonable accommodations to protect against COVID-19, then the employee must return to work.

❖ **If an employee is receiving a weekly TTD payment due to a workers' comp injury, is the employee eligible to receive UI?**

No. An employee cannot receive both Kentucky workers' compensation and UI benefits at the same time.

❖ **If we ask employees to take one or two weeks of unpaid leave sometime during the balance of the year, can the employees file for unemployment for the one or two weeks that are unpaid?**

Yes, a furlough is a short time of leave with the anticipation of being hired back. A layoff is permanent and there is no return to work option. Kentucky is allowing individuals to file for UI benefits in both situations.

❖ **What about individuals who were unemployed before the declaration of the COVID-19 pandemic? Can they apply for benefits? Is there an extension for those who have exhausted a claim and aren't eligible to file a new one?**

The recently approved federal CARES Act has extended the number of weeks from 26 to 39.

Individuals who have exhausted their UI benefits since July 1, 2019, may qualify for an additional 13 weeks of payments. If eligible, this extension is automatic. Individuals do not need to file a new claim.

Return to Work

❖ **When we are ready for the employee to return to work, how does that process work?**

Employees can continue to draw benefits until an employer begins operations. However, if employees filed a claim and reported a date that they will return to work, they you will need to contact the UI Help Line to adjust/correct that information at 502-564-2900.

Unemployment Insurance

Employer Handbook for COVID-19

❖ What if an employee refuses to or cannot return to work when recalled? Do they still get unemployment?

Kentucky has expanded UI eligibility. Every state has parameters for what constitutes a good reason for receiving UI benefits. Currently, leaving one's job in order to self-isolate or to care for ailing family members or a lack of childcare is a valid, qualifying reason to receive UI benefits. If the employer offers reasonable accommodations or the opportunity to telecommute, then the employee must continue to work if work is offered.

The employee will continue to draw benefits until the employer begins operations. If the employer recalls employees and an employee refuses to return to work then one of two possibilities can occur. First, if the state of emergency is lifted, then the employee must return to work. Second, if the employer recalls employees, but has made reasonable accommodations to protect against COVID-19, then the employee must return to work.

❖ What if my employees can make more money on UI + \$600 than I can pay them and decides to stay home?

During these unprecedented times, UI benefits have been made available to groups that are not normally eligible for benefits. This includes individuals who have left their jobs because they have a reasonable fear that exposure to COVID-19 at their workplace will cause a negative impact on their health and they want to stay home.

Despite these flexibilities, a central requirement of UI eligibility has always been, and still is, that an individual is eligible for UI if they are separated from their job due to no fault of their own, they cannot have simply quit. With that in mind, if an employer provides reasonable accommodations for employees at their workplace or offers an option to telecommute, the employee must work if it is offered by the employer.

In these circumstances, the employer maintains the opportunity to protest any claim that is filed by an employee. If the employer and employee disagree about what is considered reasonable accommodations, those UI claims will have to be decided by a UI staff member on a case-by-case basis. Either side has the right to appeal that decision.

For information about the appeals process, go to the Kentucky Career Center's website to the [Benefit Appeals page](#).