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Unemployment Compensation:
A Guide for Child Care Stakeholders During the Coronavirus Pandemic

CLASP
Policy solutions that work for low-income people

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Introduction

The coronavirus pandemic continues to dramatically transform the everyday lives of families across the country. Child care providers—many of whom operate on thin margins even in a good economy—are grappling with difficult questions about whether they can remain open safely with smaller class sizes or if it's in their best interests to close. Some states have mandated programs to close altogether. Neither option is viable without significant public relief funds to shore up providers who have lost revenue due to forced closures or lower enrollment and to cover the high cost of emergency child care for essential workers.[1]

As a result, child care programs have no choice but to make difficult staffing and operating decisions in the wake of revenue shortages. More than one-third of 5,000 providers surveyed in early April by the National Association for the Education of Young Children (NAEYC) reported that they had to lay off or furlough workers, or that they had been laid off or furloughed themselves. An additional 41 percent anticipated furloughs or layoffs in the weeks ahead.[2] Given the demographics of the child care workforce,[3] substantial layoffs in the child care sector will fall disproportionately on women of color and immigrant women.[4]

We continue to advocate for substantial, dedicated public relief funds for child care. In the meantime, recent expansions to unemployment insurance (UI) programs can offer child care workers financial resources if they lose their jobs, their program is closed, their hours are cut, or they otherwise can't work due to the coronavirus pandemic. State child care administrators and advocates should have a general understanding of how UI works—and how benefits often fall short for workers—so they can support child care providers in navigating the available forms of relief.

This brief provides an overview of the UI system for child care stakeholders and considerations for state agencies and child care programs for determining how unemployment compensation can support child care workers who have lost earnings due to the coronavirus crisis.

Background on unemployment insurance

Unemployment Insurance, enacted in 1935 as part of the Social Security Act in the wake of the Great Depression, is a tried and tested method of getting income to workers who are involuntarily unemployed. The program is administered at the state level and overseen by the U.S. Department of Labor (DOL).

States set their own eligibility rules within broad federal guidelines, but workers are generally eligible for unemployment insurance under typical circumstances if they:[5]

- Are unemployed through no fault of their own;
- Are able to work and actively seeking employment; and
- Have earned a certain amount of income during a "base period" before becoming unemployed.

Workers receive unemployment benefits in the state where they were previously employed, even if they live in another state. UI benefits vary at the state level both in terms of amount and duration. State laws generally attempt to replace about half of a worker's previous earnings, up to the maximum benefit level,[6] though average wage replacement rates ranged from 31 percent in Alaska to 54 percent in Hawaii during 2019.[7] In January 2020, the average weekly benefit nationally was roughly $385 per week,[8] ranging from $213 in Mississippi to $546 in Massachusetts. In all but eight states, workers are eligible for UI benefits for up to 26 weeks. States typically require workers to wait a certain period of time—also called "waiting weeks"—after losing their jobs to begin receiving their weekly benefits. Most states also require workers to meet regular "continuing eligibility" requirements to maintain benefits, such as weekly work search requirements.[9]

What does it mean to be "unemployed" for the purposes of receiving unemployment benefits?

In general, people are considered "unemployed" if they have lost some or all of their earnings due to a reduction in hours worked. Most states consider workers partially unemployed if they work less than full time and their earnings are below the weekly benefit amount in a given week.[10]

UI benefits are generally funded by taxes that employers pay on behalf of their employees. Employer contributions are placed into trust funds that states administer. Should the trust funds get depleted, states can borrow money from the federal government to cover their costs.[11] In times of recession or high rates of unemployment, the federal government has historically created temporary, fully federally funded programs like those described below to bolster state benefits.

The UI system acts as a stabilizer for individual workers facing sudden job loss and as a macroeconomic stabilizer for state or regional economies during a widespread economic downturn. However, many state programs have suffered from neglect and disinvestment, limiting their ability to be fully responsive to economic crises. Others have been outright sabotaged by governors and legislators who reduced the number of weeks that workers can collect benefits, imposed punitive "continuing eligibility" rules, and restricted which workers can qualify for help in the first place.[12] These policy changes created major holes in the UI safety net and resulted in fewer unemployed workers receiving benefits over time.[13]

Advanced under the guise of being necessary to prevent fraud, such cuts to benefits are often rooted in racist, xenophobic beliefs about who is "deserving" of government assistance. Not coincidentally, workers of color—in particular Black workers—are disproportionately among those whose benefits are reduced or who are cut off from UI altogether under state policy restrictions, despite having higher rates of unemployment due to pervasive, systemic barriers to opportunity.[14]

Recent flexibility in and expansions to unemployment insurance in response to COVID-19

A key purpose of UI is to keep workers attached to the workforce. What that means in these new and unsettling times is that people have to stay home and remain ready to return to their employers once the virus has passed.

DOL issued guidelines on March 12 encouraging states to expand their UI eligibility provisions to cover people who are unable to work or who had to leave their jobs due to certain coronavirus-related issues and reminding states that they can waive certain administrative requirements in an emergency.[15] This was a reaction to states attempting to figure out how to apply requirements that workers remain able and available to work when a public health crisis requires them to remain at home.

The Families First Coronavirus Response Act provided an additional $1 billion in funding to incentivize states to eliminate barriers to state UI programs.[16] This funding required states to waive waiting weeks, work search requirements, and employer experience rating[17] in order to receive half of the funding made available by the Act.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act further expands support for people who have lost their jobs or can't work through no fault of their own by creating three federally funded unemployment compensation programs:

- **Pandemic Unemployment Assistance (PUA)** provides up to 39 weeks of unemployment compensation for those who typically don't qualify for state UI, including people who are self-employed, people seeking part-time work, people facing partial wage loss,[18] and those without sufficient work history to qualify for UI. This would extend eligibility for unemployment benefits to self-employed family child care providers, who are typically not eligible for benefits.[19] PUA benefits are available to immigrant workers with work authorization.[20]
- **Pandemic Unemployment Compensation (PUC)** provides workers receiving state UI benefits (including those receiving partial benefits) or PUA with an additional $600 per week on top of their regular benefits through July 31, 2020.[21]
- **Pandemic Emergency Unemployment Compensation (PEUC)** provides workers receiving state UI benefits with an additional 13 weeks of compensation beyond the maximum number of weeks available through their state programs (26 weeks in most states).[22]

These programs are important because they will allow many child care providers who typically can't access unemployment compensation—such as self-employed family child care providers and part-time child care workers—to access benefits during these challenging times. The programs also provide income replacement and ensure workers can receive benefits for a longer period of time, which is essential given how meager unemployment benefits are in many states.

Every state and the District of Columbia has elected to provide these benefit programs by signing an agreement with DOL. Now that the guidance is final, states are setting up systems to process new PUA claims and the extra $600 per month of federally funded PUC. Anyone currently receiving an unemployment benefit will automatically be eligible to receive the additional $600 and the extended duration of benefits, but they must still comply with weekly reporting requirements prescribed by the state.

Once fully up and running, the PUA system will hopefully work seamlessly with regular state unemployment insurance. Child care providers who are ineligible for regular state unemployment insurance should follow directions on their state unemployment insurance website about how to submit a PUA claim. It is important to note that while many child care providers will be eligible for PUA, the biggest reason workers typically do not get UI now is because they don't apply based on the belief that they aren't eligible.[23] Hopefully, this new program will help millions of workers learn about their eligibility for regular UI. Advocates and

Short-time compensation programs can help child care programs retain their staff

Short-time compensation (STC) or work-sharing programs are intended to help employers avoid layoffs while helping workers make up for lost income. Employers in states with STC programs can put employees on part-time schedules with partial unemployment benefits. This may be a particularly useful tool for child care programs that are still receiving some revenue, but not enough to fully maintain their payrolls. Child care programs can apply to participate in their state's STC program through the same office that administers UI.

The CARES Act directs the federal government to fully reimburse states with qualifying STC programs already in place for the cost of administering these programs until December 31, 2020. Workers in these programs will be entitled to the additional $600 per week in PUC benefits. Hopefully, states will encourage employers to consider using work sharing as an alternative to layoffs. States that don't have work-sharing arrangements in place may set up temporary programs that conform to federal guidelines. The federal government will reimburse states for 50 percent of those benefits.

Work-sharing programs may be a good opportunity for child care programs who are still receiving some revenue to reduce staffing costs without laying off or furloughing employees.

As of 2019, 27 states have STC programs: AZ, AR, CA, CO, CT, FL, IL, IA, KS, ME, MD, MA, MI, MN, MS, NE, NH, NJ, NY, OH, OR, PA, RI, TX, VT, WA, and WI. See ***https://oui.doleta.gov/unemploy/docs/stc_fact_sheet.pdf****.*

KY recently added a temporary work-share program in response to the coronavirus crisis, and VA just passed a law authorizing work-sharing.

administrators have a role in helping to increase awareness among child care providers about the availability of these funds.

Child care workers should keep in mind that many state UI systems are overwhelmed by growing numbers of new unemployment claims at the same time they are attempting to layer on these new federal programs. Workers may find that it takes even more time than usual to submit and process their claims. The good news is that many states backdate benefits to the date of an applicants' unemployment, if they are found eligible for benefits, which allows them to get the benefits retroactively.

Recent expansions are necessary but not sufficient to meet growing need for UI

It is important to acknowledge that all of these new, important benefits are layered onto 53 separate systems run by the states, the District of Columbia, Puerto Rico, and the Virgin Islands. As described earlier, many of these systems are insufficient and hard to access, either by design or due to a lack of investment. As a result, states are struggling to respond to the growing number of claims at the same time that they are implementing new federal benefit programs and claimants in many states are experiencing difficulty accessing benefits.[24] If we don't further improve the UI system and increase federal minimum benefit requirements in the coming weeks, we will see another wave of massive reductions in benefits once states run out of money in their trust funds and have to borrow from the federal government to continue UI payments.[25]

Considerations and recommendations for child care policymakers and providers

Unemployment compensation programs can be a lifeline for workers who are unable to work and aren't being paid due to the coronavirus pandemic. However, state agencies and child care programs must consider a number of factors when determining the extent to which unemployment compensation can support child care workers throughout the coronavirus crisis:

State UI systems vary widely in terms of accessibility, benefit duration, and the value of benefits relative to wages. Similarly, states' responsiveness to the current crisis—both in terms of taking advantage of additional flexibility and federal funding and in taking actions above and beyond baseline reforms—also varies.[26] As a result, the UI system may be a more reliable buffer for unemployed or furloughed workers in some states than others.

Many states have cumbersome continuing eligibility requirements that make it difficult for workers to retain benefits over time. For example, claimants are required to recertify every week in order to continue receiving benefits, which will be especially challenging in light of the frequent technical issues state systems are experiencing. Strict job search requirements have generally been waived for many claimants, but they could be imposed under certain circumstances. For example, child care workers whose programs close for the summer may be subject to job search requirements during this period to maintain eligibility for benefits.

UI benefits generally count as income for the purposes of means-tested programs for which many child care workers are eligible. The CARES Act was clear that the $600 weekly boost through PUC would **not** count as income for the purposes of determining eligibility for Medicaid and the Children's Health Insurance Program (CHIP). However, PUC benefits affect income eligibility for other programs like the Supplemental Nutrition Assistance Program (SNAP) and child care assistance if states don't take steps to avoid this. The loss of earned income may impact child care workers' ability to claim federal tax credits like the Earned Income Tax Credit or the Child Tax Credit in 2021.

Some nonprofit organizations are considered "self-insured," meaning they don't pay into unemployment insurance programs and are therefore fully responsible for reimbursing the state for any UI claims that are processed against them. The CARES Act reduces the nonprofit responsibility to 50 percent between March 13 and December 31, 2020, with the federal government reimbursing the state for the other half. Self-insured nonprofit child care providers should be aware of these obligations if they lay off staff.

There may be conditions under which home-based providers close that make them ineligible for UI. Because home-based providers are self-employed, they determine as to whether they are open and available to provide care in states that aren't mandating closures. Based on guidance from DOL, home-based providers should generally be eligible for PUA if they are forced to close based on orders in their state or if they or a member of their family are ill, have been advised to quarantine, or are at high risk of contracting coronavirus.[27] Home-based providers **may not be eligible for unemployment compensation if they choose to close for another reason**, such as too few families attending or a generalized fear of falling ill during the pandemic, because it could be interpreted as turning down suitable employment. Home-based providers would generally be eligible for full or partial benefits through state UI or PUA if they are open but fewer children (or no children) are attending and they are thereby earning less income.

Self-employed family child care providers may need support to submit a claim for PUA. Workers filing for PUA do not need to provide proof of self-employment to qualify, but they will need to document their income by sharing, for example, 2019 tax returns, bank receipts, business records, contracts, invoices, or billing statements. Providers that operate more informally may need guidance to identify appropriate records. They may also need support to identify the appropriate qualifying reason for submitting a PUA claim.

Recommendations to support child care providers

The child care system is at great risk of experiencing irreparable harm due to the coronavirus public health and economic crisis. We continue to advocate for substantial, dedicated public relief funding for the child care sector to help programs minimize revenue losses and reverse layoffs or avoid them in the first place.[28] We cannot and should not assume that widespread layoffs are inevitable or unavoidable—it is simply a matter of whether Congress decides to fund the child care system like the essential support it is. Substantial, dedicated relief for the child care sector won't just directly save hundreds of thousands of small businesses and millions of jobs—a large share of which are held by women of color—it will also ensure that parents can more easily return to work when it is safe to do so.[29]

Congress can do many things to strengthen the UI programs in the short and long term for all workers, including child care workers. In the short term, Congress needs to extend the PUA, PUC, and PEUC programs well into the future and only let them expire when the economy sufficiently recovers. Congress must also authorize sufficient weeks of these benefits to meet the needs of the long-term unemployed and make sure the PUA program covers a broader swath of workers, including those who don't have work authorization.

For the longer term, Congress must pursue broader reforms to the UI system that center racial equity and put the wellbeing of workers first. For example, Congress must ensure that all states:

- offer at least 26 weeks of UI benefits;
- offer adequate wage-replacement of at least 60 percent of wages;
- take proven measures to expand UI eligibility;
- have work-sharing programs; and
- enact responsible financing reforms that are not borne by unemployed workers.[30]

In the meantime, state child care administrators and advocates can work with officials across state agencies to increase accessibility to the UI system and minimize the loss of other supports that families depend on during these times of great uncertainty. Similarly, child care stakeholders—including resource and referral agencies—can share important information about UI with child care providers to help them make informed decisions about their operating status and available forms of support.

State administrators and advocates should work with officials across state agencies to:

- implement improvements to state UI benefits, including increasing the maximum duration and amount of benefits available to workers; easing reporting requirements for continuing eligibility; and improving systems to ensure that all workers who have earned benefits can access them;
- ensure that new PUC benefits don't count against people applying for or currently enrolled in SNAP, child care assistance, and other means-tested programs;

- clarify eligibility circumstances and application procedures for home-based providers in your state; and
- collect disaggregated data on unemployment rates and receipt of unemployment benefits during the coronavirus crisis and recovery by race, ethnicity, gender, disability, and other characteristics.

State administrators, advocates, and child care resource and referral agencies should use existing communications platforms and networks to inform child care providers about:

- the availability of unemployment compensation, including partial unemployment benefits and new UI programs through the CARES Act;
- the availability of work-sharing or STC programs as an alternative to staff layoffs;
- specific eligibility and application criteria under state UI and federal PUA programs for center- and home-based providers, including what information providers need to apply for benefits; and
- continuing eligibility requirements that providers have to meet to maintain their UI benefits for as long as is allowable.

Stakeholders should ensure these resources are available in multiple languages.

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Endnotes

[1] The Center for Law and Social Policy (CLASP) estimates that sustaining the child care system through the pandemic would cost $9.6 billion each month. For more information, see Rebecca Ullrich and Aaron Sojourner, *Child Care is Key to Our Economic Recovery*, CLASP and the National Women's Law Center (NWLC), April 2020, **https://www.clasp.org/publications/report/brief/child-care-key-our-economic-recovery**.
[2] National Association for the Education of Young Children, *From the Front Lines: The Ongoing Effect of the Pandemic on Child Care,* April 17, 2020, **https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDFs/resources/topics/naeyc_coronavirus_ongoingeffectsonchildcare.pdf**.
[3] Marcy Whitebook, Caitlin McLean, Lea J.E. Austin, and Bethany Edwards, *The Early Childhood Workforce Index 2018,* Center for the Study of Child Care Employment, 2018, **https://cscce.berkeley.edu/early-childhood-workforce-2018-index/**.
[4] Data from the Department of Labor show that unemployment rates across all industries have increased more substantially for women, Black men, and Latinx and Asian workers (both men and women). Sixty percent of the 700,000 jobs eliminated in March 2020 were held by women. Women and people of color are overrepresented in industries at high risk for layoffs, including child care. See Alexandra Kalev, "Research: U.S. unemployment rising faster for women and people of color," *Harvard Business Review,* April 20, 2020, **https://hbr.org/2020/04/research-u-s-unemployment-rising-faster-for-women-and-people-of-color**; Anna North, "'We are on our own': How the coronavirus pandemic is hurting child care workers," *Vox,* April 6, 2020, **https://www.vox.com/2020/4/4/21203464/coronavirus-child-care-workers-pandemic-unemployment-cares-act**.
[5] Chad Stone and William Chen, *Introduction to Unemployment Insurance,* CBPP, 2014, **https://www.cbpp.org/research/introduction-to-unemployment-insurance.**
[6] Ibid.
[7] U.S. Department of Labor, "UI Replacement Rates Report," last updated May 1, 2020, **https://oui.doleta.gov/unemploy/ui_replacement_rates.asp**.
[8] U.S. Department of Labor, "Monthly Program and Financial Data," **https://oui.doleta.gov/unemploy/claimssum.asp.**
[9] George Wentworth, *Closing Doors on the Unemployed,* NELP, 2017, **https://s27147.pcdn.co/wp-content/uploads/Closing-Doors-on-the-Unemployed12_19_17-1.pdf.**
[10] U.S. Department of Labor, "Chapter 3: Monetary Entitlement," in *Comparison of State Unemployment Laws 2019*, 2019, **https://oui.doleta.gov/unemploy/comparison/2010-2019/comparison2019.asp**.
[11] Stone and Chen, *Introduction to Unemployment Insurance*.
[12] Unprecedented cuts to state UI systems happened in the wake of the last recession as a reaction to states having insolvent trust funds and having to repay loans. See for example, Wentworth, *Closing Doors on the Unemployed;* Andrew Stettner, *Speeding the Recovery of Unemployment Insurance,* The Century Foundation, 2016, **https://tcf.org/content/report/speeding-the-recovery-of-unemployment-insurance/**.
[13] Wentworth, *Closing Doors on the Unemployed.*
[14] See for example, Joshua Smith, Valerie Wilson, and Josh Bivens, *State Cuts to Jobless Benefits Did Not Help Workers or Taxpayers,* Economic Policy Institute, 2014, **https://www.epi.org/publication/state-**

unemployment-insurance-cuts/; Austin Nichols and Margaret Simms, *Racial and Ethnic Differences in Receipt of Unemployment Insurance Benefits during the Great Recession,* Urban Institute, 2012, **https://www.urban.org/sites/default/files/publication/25541/412596-Racial-and-Ethnic-Differences-in-Receipt-of-Unemployment-Insurance-Benefits-During-the-Great-Recession.PDF**; Olugbenga Ajilore, *On the Persistence of the Black-White Unemployment Gap,* Center for American Progress, 2020, **https://www.americanprogress.org/issues/economy/reports/2020/02/24/480743/persistence-black-white-unemployment-gap/**.

[15] This guidance clarified that states could consider quarantined workers as eligible for unemployment as long as they remain able and available to work. This guidance also reminded states that they can waive some administrative requirements in an emergency. As a result, states began waiving work search requirements, waiting weeks to begin receiving benefits, and experience rating charges to employers whose employees are forced to stay home as a result of COVID-19. **https://wdr.doleta.gov/directives/attach/UIPL/UIPL_10-20_Acc.pdf.**

[16] Maurice Emsellem and Michele Evermore, *Understanding the Unemployment Provisions of the Families First Coronavirus Response Act,* March 24, 2020, **https://www.nelp.org/publication/understanding-the-unemployment-provisions-of-the-families-first-coronavirus-response-act/**.

[17] All states base employer taxes on the number of their employees who receive a UI benefit, also known as an "experience rating." As a result, employers have an incentive to challenge worker claims in order to minimize their tax burdens. With experience rating waived in this emergency, claims can be processed more smoothly.

[18] Workers who are partially unemployed but who do not meet eligibility criteria for partial unemployment through regular state UI should generally be eligible for assistance through PUA.

[19] For more information on PUA eligibility, see "Unemployment Insurance Program letter No. 16-20," from John Pallasch, Assistant Secretary for Employment and Training Administration, U.S. Department of Labor, to State Workforce Agencies, April 5, 2020, **https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20.pdf**.

[20] Rebecca Smith, *Immigrant Workers' Eligibility for Unemployment Insurance,* NELP, March 2020, **https://www.nelp.org/publication/immigrant-workers-eligibility-unemployment-insurance/**.

[21] Note that PUC benefits will **not** count as income when determining eligibility for Medicaid or CHIP.

[22] Workers must be actively searching for work to receive these benefits, but the provision includes flexibility to waive job search requirements for people who are unable to do so because of COVID-19.

[23] U.S. Department of Labor, "Characteristics of Unemployment Insurance Applicants and Benefit Recipients," Economic News Release, September 25, 2019, **https://www.bls.gov/news.release/uisup.nr0.htm**.

[24] See for example, Ella Nilsen, "Getting unemployment has been a nightmare for millions of people across the country," *Vox,* April 20, 2020, **https://www.vox.com/2020/4/20/21220931/unemployment-insurance-coronavirus-websites-crashing**.

[25] Wentworth, *Closing Doors on the Unemployed.*

[26] NELP, *Unemployment Insurance Protections in Response to COVID-19: State Developments,* March 27, 2020, **https://www.nelp.org/publication/unemployment-insurance-protections-response-covid-19-state-developments/**.

[27] See "Unemployment Insurance Program letter No. 16-20." Note that there are other reasons workers

may be eligible for PUA that likely would not apply to home-based child care providers.

[28] Nearly 500 national and state organizations sent a letter to Congress asking for $50 billion in relief in April 2020. https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/ uploads/2020/04/Child-care-4.0-pkg-coalition-letter-FINAL-House-and-Senate1.1.pdf. CLASP identified principles for supporting the child care sector through the coronavirus crisis. See Hannah Matthews and Kate Gallagher Robbins, *Policymaking Principles for Supporting Child Care and Early Education through the Coronavirus Crisis,* CLASP, March 18, 2020, **https://www.clasp.org/publications/fact-sheet/policymaking-principles-supporting-child-care-and-early-education-through**;

[29] CLASP and NWLC, *Five Reasons Stabilizing Child Care During the Coronavirus Pandemic is Critically Important for Families and the Economy,* April 27, 2020, **https://www.clasp.org/publications/fact-sheet/five-reasons-stabilizing-child-care-during-coronavirus-pandemic-critically**.

[30] Rachel West, Indivar Dutta-Gupta, Kali Grant, et al., *Strengthening Unemployment Protections in America: Modernizing Unemployment Insurance and Establishing a Jobseeker's Allowance,* Center for American Progress, NELP, and the Georgetown Law Center on Poverty and Inequality, 2016, **https://www.nelp.org/publication/immigrant-workers-eligibility-unemployment-insurance/**.