What Employers Need to Know About Unemployment Insurance (COVID-19 FAQs)
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Under the current conditions of the COVID-19 pandemic, many businesses are facing the difficult situation of having to cut employees’ hours, lay them off, or maybe even close entirely. This article provides basic information on applying for unemployment insurance (“UI”) so you can help ease the financial burden on your employees.

1. What is UI?

Unemployment insurance is a program administered by the Unemployment Insurance Division of the State Department of Labor and Industrial Relations (“DLIR”). The purpose of this program is to provide temporary financial assistance to workers who are unemployed through no fault of their own and who meet the requirements of the Hawaii Employment Security Law. Unemployment insurance benefits are paid as a matter of legal entitlement and past employment, and not on the basis of need.

2. Who is eligible to receive UI benefits?

An employee who is out of work and not being paid, or whose work hours have been reduced, may be eligible to receive UI benefits. This includes employees who are out of work because their employer (a) closed, (b) temporarily closed, (c) cut the employee’s hours, or (d) directed the employee to remain home (COVID-19 Eligibility FAQs).

Generally, to qualify for benefits, employees must meet both monetary qualifications and eligibility requirements. However, according to Governor Ige’s March 20 press release, “the state will interpret Hawai‘i’s unemployment laws to the broadest extent possible to cover those who are out of work because of COVID-19.” Additionally, the state will make “the adjustments necessary to loosen eligibility requirements for claimants and reduce or eliminate experience rate adjustments for employers because of employees who receive unemployment benefits because of COVID-19.”

3. What if my former employee does not qualify for regular UI benefits?

Individuals who do not qualify for regular unemployment benefits may be eligible for federal Pandemic Unemployment Assistance (“PUA”) under the CARES Act, if the individual is unemployed because of one of the following COVID-19-related reasons:

1. The individual has been diagnosed with COVID–19 or is experiencing symptoms of COVID–19 and seeking a medical diagnosis;
2. A member of the individual’s household has been diagnosed with COVID–19;
3. The individual is providing care for a family member or a member of the individual’s household who has been diagnosed with COVID–19;
4. A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as
a direct result of the COVID–19 public health emergency and such school or facility care is required for the individual to work;

5. The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID–19 public health emergency;

6. The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;

7. The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID–19 public health emergency;

8. The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID–19;

9. The individual has had to quit his or her job as a direct result of COVID–19;

10. The individual’s place of employment is closed as a direct result of the COVID–19 public health emergency; or

11. The individual meets any additional criteria established by the Secretary.

Note that although some of these reasons overlap with eligibility for paid leave under the Families First Coronavirus Response Act (“FFCRA”), an individual cannot receive both PUA and FFCRA paid leave.

PUA benefits are available for up to 39 weeks (including the number of weeks of regular UI benefits the individual received), and are available through December 31.

The DLIR has a separate system set up for individuals applying for PUA, which can be accessed here.

4. How are unemployment benefits calculated?

An employee’s weekly benefit amount (“WBA”) is calculated by dividing the wages in the highest quarter of the employee’s base period by 21 (i.e., benefit = 1/21 of the highest quarter of wages).

The standard base period is the first 4 of the last 5 completed calendar quarters immediately preceding the effective date of the claim. The effective date of the claim is the Sunday of the week in which the employee first applies. If the employee does not qualify using the standard base period, an alternate base period can be used. The alternate base period is the last 4 completed calendar quarters.

For example, for UI claims filed on/after April 1, 2020, the standard base period runs from January 1, 2019 to December 30, 2019. For UI claims filed in March of 2020, the standard base period runs from October 1, 2018 to September 30, 2019.

The DLIR’s UI Benefit Estimator can be used to determine an employee’s approximate potential benefit amount. An employee’s WBA cannot be more than the maximum WBA, which is currently $648. However, in addition to the employee’s WBA, the CARES Act provides covered individuals with an additional $600 per week, referred to as Federal Pandemic
Unemployment Compensation ("FPUC"). The individual should receive the extra $600 in the same direct deposit as the WBA. The last week FPUC will be paid is the week ending July 25, 2020.

5. If I have to cut my employees’ hours, will they be eligible to receive UI benefits?

Employees whose hours are reduced, but who are still “attached” to an employer, may be eligible for partial unemployment benefits if they work less than their normal hours and earn less than their WBA.

When an employee files a claim for partial unemployment benefits, the DLIR will send a request to the employer to verify the employee’s status through Form UC-348. The employer should complete and submit the form within five working days from the date of the request. Instructions on submitting Form UC-348 are available here.

Employers will also have to file Low Earning Reports through the Electronic Low Earnings Reporting and Monitoring system to verify the employee’s earnings and eligibility.

6. How do individuals apply for UI?

To apply for UI, individuals should visit https://huiclaims.hawaii.gov/#/. That website has a link to the application for an initial claim as well as an instructional video for filing UI online. The DLIR also has pre-filing information available here.

Because the number of people attempting to file claims is so high, the DLIR has warned that “response time may be delayed, you may receive error messages and or dropped connections.” According to Governor Ige’s Press Release, benefits will be paid to individuals who file their initial unemployment claims late.

The local unemployment offices remain closed to walk-in and in-person services. Individuals can call (833) 901-2275 to ask general questions and (833) 901-2272 to reset their HUIClaims account password. In addition, individuals can email their local claims office with specific questions.

7. Isn’t there a waiting period?

Typically, an individual must wait one week after filing a claim before being paid UI benefits. However, the DLIR is waiving the 7-day waiting period for UI claims related to COVID-19.

8. Can an employee receive TDI benefits and UI benefits at the same time?

No, an employee cannot receive temporary disability insurance benefits if they are receiving UI benefits.

9. After a former employee applies for unemployment benefits, what do I have to do?
Typically, after an individual applies for UI, the former employer must submit Form UC-BP-35 (or use the State Information Data Exchange System (SIDES)) to provide information regarding the individual’s job separation. During the COVID-19 pandemic, the DLIR still encourages employers to either submit the Form UC-BP-35 or use SIDES. However, if employers cannot for whatever reason, then the DLIR will base the determination on the information provided by the claimant.

Individuals, however, must submit a certification for every week or every other week (depending on what type of claim that they have) they wish to receive UI benefits. The claim certification covers the prior week or two weeks. An instructional video is available from the DLIR. Due to the volume of weekly certifications that currently need to be filed, the DLIR recently implemented a filing schedule based on the individual’s last name, which is available here.

Pursuant to Governor David Y. Ige’s Seventh Supplementary Proclamation Related to the COVID-19 Emergency, the DLIR has suspended the one week waiting period as well as the usual requirements of registering on HireNet Hawaii and that individuals certify they searched for three jobs weekly in order to continue to qualify for benefits. Currently, if someone indicates on the claim certification the individual did not look for work during the week, the system may automatically send the person a reminder to do so, but it will not affect the person’s benefits.

10. How long will individuals receive benefits?

Typically, an individual would be paid for 26 weeks of total unemployment within a one-year period. However, the CARES Act’s Pandemic Emergency Unemployment Compensation (“PEUC”) program extends that time for an additional 13 weeks for a total of 39 weeks, available through December 31. The individual will need to apply for PEUC separately.

The DLIR recently began the PEUC program. More information about the PEUC program may be found here.

11. If I extend medical coverage to laid-off employees, will that affect their UI benefits?

No. Any healthcare premiums paid by an employer under the employer’s healthcare plan for its laid-off employees will not reduce the amount of UI benefits paid to those employees.

12. If I provide employees with paid time off, will it affect their UI benefits?

Yes. Gross earnings (before taxes) (including wages, commissions, bonuses, tips, gratuities, vacation pay, PTO, etc.) from all employment (including part-time, intermittent, or on-call) in excess of $150 will be deducted from an individual’s WBA the week in which it is paid. Severance pay will not reduce an individual’s benefit amount. Both the employee and employer are responsible for correctly reporting the employee’s gross earnings for each week.

Examples:
- An employee’s WBA is $400, but the employee is paid $250 in vacation pay. The employee would only receive $300 in UI benefits for that week. $400 – ($250 – $150) = $300.
• An employee’s WBA is $400, but the employee is paid $150 in vacation pay. The employee would receive $400 in UI benefits.

• An employee’s WBA is $400, but the employee is paid $450 in vacation pay. The employee would not receive any UI benefits for that week because the earnings exceed the WBA.

Individuals who receive sick pay, workers’ compensation, or TDI are not eligible to receive UI benefits under Hawaii law.

13. We received a Paycheck Protection Program (“PPP”) loan and are bringing back some of our laid off workers. If I have them work one week on and one week off, how does this impact their UI benefits?

This would be considered partial unemployment and they would be eligible for partial unemployment benefits for the weeks in which they do not work. They do not need to file claim certifications for those weeks they are working full time (because if they earn more than their WBA, they would not qualify for UI benefits for that week). If they are unsure whether the amount they earned in a certain week is more or less than their WBA, they should just file the certification.

If the PPP funds run out or it otherwise turns out that you need to lay them off again, they do not need to reopen their claim. Rather, they would just resume filing claim certifications.

14. We are planning to bring our employees back to work soon, but some of them would rather continue receiving unemployment benefits. What can I do?

With the FPUC of an extra $600 per week through July 31, some employees would prefer not to go back to work. However, as Director of the Department of Labor and Industrial Relations Scott Murakami recently said, “That technically isn’t a choice for them . . . They’re supposed to go back to work.” You should communicate in writing to employees the offer of re-employment of comparable work. If they do not agree to return to work, you can remind them that if they refuse re-employment, they may be disqualified from receiving UI benefits because the claim certification requires them to certify that they are available to work and that there is no available work.

For employers who received a PPP loan, according to an interim final rule, your PPP loan forgiveness amount will not be reduced if after you laid off an employee:

1. You made a good faith, written offer to rehire such employee (or, if applicable, restore the reduced hours of such employee) during the covered period or the alternative payroll covered period;
2. The offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the separation or reduction in hours;
3. The offer was rejected by such employee;
4. You maintained records documenting the offer and its rejection; and
5. You informed the applicable state unemployment insurance office of such employee’s rejected offer of reemployment within 30 days of the employee’s rejection of the offer.
The DLIR recently changed the Weekly Report of Low Earnings to include a question about whether an employee is covered by the PPP. The DLIR encourages employers to immediately report that an employee has refused to return to work using the Weekly Report of Low Earnings.

Note, however, that if individuals refuse to return to work because of legitimate concerns for safety, remember that under the Occupational Safety and Health Act, workers have a right to refuse to work under conditions that clearly present a risk of death or serious physical harm. Be sure you are following the most current CDC and OSHA/HIOSH guidance applicable to your business.

If the fear of returning to work is based on an underlying medical condition that may make the individual higher risk, the person may be protected by the Americans with Disabilities Act (“ADA”), in which case you should engage in the interactive process. The EEOC addressed this issue in recently updated guidance.

15. How do these extra payments under PUA, PEUC, and FPUC affect my experience rating?

During the COVID-19 pandemic, separations for COVID-19-related reasons will not affect employers’ experience ratings. However, as the funds in the reserves are depleted, expect contribution rates to be affected for next year.

16. Will nonprofit organizations that self-finance unemployment insurance get any government assistance with unemployment insurance costs?

Under Section 2103 of the CARES Act, the state is allowed to reimburse the non-contributory or self-insured employers up to 50% of the charges incurred due to the payment of UI benefits upon payment from these employers. The reimbursements apply to UI benefits payments for weeks of unemployment beginning on or after March 13, 2020 and ending on or before December 31, 2020, even if the unemployed individual is not unemployed as a result of COVID-19. The employer must pay the full amount owed and then the state will reimburse them for 50% of the amount.

17. My employee says he keeps calling the unemployment office and is not able to get through. Is there anything I can do to help him?

You can offer the following ways to contact the appropriate department:

- UI General Questions: (833) 901-2275
- Password reset: (833) 901-2272
- To request language assistance, email DLIR.UI.LanguageAccess@Hawaii.gov with (1) full name, (2) telephone number (including area code), and (3) requested language. The interpretation services will be provided free of charge and via telephone.
• To request a backdate, email DLIR.UI.Backdate@Hawaii.gov with (1) full name, (2) last four digits of their Social Security Number, (3) telephone number (including area code), and (4) the week they would like their claim backdated to. The backdate will be for their first week of less than full employment due to COVID-19.

• To inquire about a disqualification, email DLIR.UI.Disqualified@Hawaii.gov with (1) full name, (2) last four digits of their Social Security Number, (3) telephone number (including area code), and (4) a picture (screenshot) of the disqualification. This email address is for those who have received an email, letter, or other message that says that they are disqualified from UI.

• Local UI Office Contact Information:
  o Oahu: (808) 586-8970 / dlir.ui.oahu@hawaii.gov
  o Hilo: (808) 974-4086 / dlir.ui.hilo@hawaii.gov
  o Kona: (808) 322-4822 / dlir.ui.kona@hawaii.gov
  o Maui: (808) 984-8400 / dlir.ui.maui@hawaii.gov
  o Kauai: (808) 274-3043 / dlir.ui.kauai@hawaii.gov

Additional Resources

• HEC’s UI Page
• How to File, Certify & Obtain Unemployment Benefits
• COVID-19 Post-Filing Information
• COVID-19: Unemployment Q&As
• Families First & CARES Acts: Federal Unemployment Info
• COVID-19 Labor Benefits Fact Sheet
• UI Handbook for Employers
• UI Employer FAQs