

**ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY:
LEGISLATIVE FAQ (PART TWO)**

APRIL 22, 2020

The Department of Employment and Security (IDES) has issued Part-Two of the FAQ that answers additional questions that members of the General Assembly have submitted. We will continue to work on the remainder of the questions and appreciate your patience and cooperation.

Please continue to submit your inquiries to James Preckwinkle: James.Preckwinkle@Illinois.gov, and Ciara Wagoner: Ciara.Wagoner@Illinois.gov, and we will do our best to get you an answer as soon as possible.

Sincerely,

James Preckwinkle

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IDES Helpline: (800) 244-5631

IDES Website: <https://www2.illinois.gov/ides/Pages/default.aspx>

UNEMPLOYMENT INSURANCE ELIGIBILITY

Q: What is the minimum amount of time you must reside in Illinois in order to qualify for unemployment benefits in Illinois? (Sen. Ellman)

A: You do not have to reside in Illinois to qualify for Illinois unemployment insurance benefits. In order to qualify for Illinois unemployment insurance benefits, an individual must have in their base period some wages for employment in Illinois. For example, you can live in another State, but work in Illinois. The base period is a specific 12-month period before the initial claim is filed.

Q: What should those who do not have an in-state license do to file for unemployment benefits?

A: When an individual files a UI claim in Illinois, IDES forwards their Illinois driver's license information to the Illinois Secretary of State to verify their identity. An individual with an out of state driver's license is sent a questionnaire that provides information to assist in verifying their identity. That information is sent to a special unit in Springfield. If additional information is needed the claimant will be contacted.

Q: If a PPP business recipient retains 50 percent of their workers as stipulated in the guidelines (in order for a loan to become a grant) would this be part of what the Feds deem as forgivable as an employment expense?

A: IDES does not administer the PPP program. For questions regarding the Payment Protection Program, please contact the Department of Commerce and Economic Opportunity at ceo.support@illinois.gov.

Q: Can PPP loan recipients use their money to pay their UI contribution?

A: IDES does not administer the PPP program. For questions regarding the Payment Protection Program, please contact the Department of Commerce and Economic Opportunity at ceo.support@illinois.gov.

Q: If 1099 employees benefit from the PPP, are they eligible for UI through IDES?

A: It depends. If the loans are used to pay wages, those wages could impact an individual's eligibility or weekly benefit amount.

Q: How will income be calculated for these employees?

A: After a claim is filed, claimants certify for payment of benefits bi-weekly. Among the questions asked is whether the individual earned wages during the week. Reported wages may offset UI benefits.

Q: How will IDES account for “closed real estate transactions” that took place before the lockdown, but weren’t paid out until after the lockdown?

A: We interpret this question to be asking what period wages are attributable to. For tax purposes, wages are reported when paid, usually the date of the check, regardless of when earned. For unemployment benefit purposes, wages are attributable to the period in which they were earned. However, please note that payments to real estate salespersons are not considered to be “wages” under certain conditions as laid out in Section 217 of the Unemployment Insurance Act. If these payments are considered to be “commissions” under the UI Act, the period for which they are attributable is decided on a case by case basis because, for benefit purposes, it is difficult to determine the period in which they were earned.

Q: Some of our constituents which were laid off or furloughed, and then filed claims for unemployment insurance have started getting paid and others are waiting for their first payment. Then they hear from their employer that they have been put back on payroll and their paycheck is being sent to them. What should they do about their unemployment claim?

A: Earnings paid to claimants by employers receiving loans through the federal stimulus would still be disqualifying income under the UIA. Claimants receiving all or part of their normal salary or wage should report these earnings when certifying. IDES will make the appropriate deductions. For any week in which they earn greater than the weekly benefit without dependent allowance, they would not be eligible for regular UI for that week. Any earnings paid to a claimant for weeks they've already received UI would be considered back pay and is also disqualifying. Either the claimant or the employer can report back pay to the agency. Claimants who report back pay or current earnings properly avoid fraud overpayments and penalties.

Q: Many realtors, service workers, etc. are essential workers and allowed to work but their hours have been reduced significantly. Is there a category for “under-employed” and if yes, how will it be measured? (1099)

A: Anyone who is unemployed or underemployed should file for unemployment and IDES will determine eligibility. If an individual’s earnings are less than their weekly benefit amount, they may qualify for unemployment benefits, though the benefits may be reduced.

Q: Is there a way to upload supporting documents? (Sen. Morrison)

A: The following portal can be found in the upper right corner of the Department's website:
<https://www2.illinois.gov/ides/pages/Submit-Filing-Documents.aspx?lang=en>

Q: A district received reports from employers that the database is not updated to the most recent UI-3/40 reports, and even longtime employees are getting denied. (Sen. Morrison)

A: Please call the IDES Employer Service Hotline: (800) 247-4984.

Q: If someone left work voluntarily in February in preparation for a new job that was supposed to begin in March, but that job didn't materialize because of the pandemic, can they still apply for UI benefits? What options are available to them?

A: Eligibility determination are made on a case-by-case basis. An individual in this circumstance should apply for unemployment and IDES will determine eligibility. The guidance for PUA issued by USDOL contains the following:

"In general, PUA provides up to 39 weeks of benefits to qualifying individuals who are otherwise able to work and available for work within the meaning of applicable state UC law, except that they are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in Section 2102(a)(3)(A)(ii)(I) of the CARES Act and listed below...

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;"

Q: If an employee's previous employer is offering their previous job back (possibly because the employer has received a PPP loan from the SBA), but the employee doesn't want to return to work (possibly because they're concerned for their safety), are they still eligible for UI benefits?

A: An individual who leaves work voluntarily without a good reason attributable to the employer is generally disqualified from receiving UI. The eligibility of an individual in this situation will depend on whether the facts of his or her case demonstrate the individual had a good reason for quitting and that the reason was attributable to the employer. An individual generally has a duty to make a reasonable effort to work with his or her employer to resolve whatever issues have caused the individual to consider quitting.

Q: When there is a rejection of PUA or UI, what appeals process does IDES have in place?

A: IDES will apply the same appeals rights to PUA as it applies to regular unemployment insurance, as provided by Section 702 and 800 of the Unemployment Insurance Act and Department rules as 56 Ill. Adm. Code 2720. Additional information about the appeal process can be found on the IDES website, [here](#).

Q: Is there a difference between furloughed workers and laid off workers?

A: A furloughed worker tends to have a specific return to work date whereas a laid-off worker's separation tends to be permanent.

Q: How long is it going to take to pay backdated claims due to the unemployment claim system failure? Some people haven't been able to submit a claim for almost 3 weeks.

A: An individual who is unable to file due to system limitations should contact the claimant call center and speak with an agency representative to discuss backdating a claim.

Q: If a displaced worker's former employer is offering them their job back, but the employee does not want to return to work due to safety concerns, is the displaced worker still eligible for unemployment benefits? Can people leave their jobs due to safety concerns and collect unemployment benefits?

A: Possibly - An individual is ineligible for benefits if he has failed, without good cause, to accept suitable work when offered him by an employment unit. Good cause is a question of fact and the individual's concern for his safety is just one factor to be taken into consideration when IDES determines eligibility.

An individual who leaves work voluntarily without a good reason attributable to the employer is generally disqualified from receiving UI. The eligibility of an individual in this situation will depend on whether the facts of his or her case demonstrate the individual had a good reason for quitting and that the reason was attributable to the employer. An individual generally has a duty to make a reasonable effort to work with his or her employer to resolve whatever issues have caused the individual to consider quitting.

Q: If a person is fired for not reporting to work due to COVID symptoms can they report that, and then file for unemployment benefits?

A: IDES will always take a claim for UI benefits and during the claim process ask whether the separation was a discharge, voluntary leaving, or layoff. If the individual cites discharge as the

reason for separation, the eligibility of an individual in this situation will depend on whether he was discharged was for misconduct as that term is defined in Section 602A of the IUIA. In general, an individual is discharge for misconduct when he deliberately and willfully violates and employer's reasonable rule or policy after having received a warning for the same or similar conduct or the employer was harmed by the violation. In addition, there are several work-related circumstances that would constitute a discharge for misconduct.

Q: If seasonal essential workers have work to do, are they entitled to the additional stimulus unemployment weekly benefit? This raises a concern for employers that employees will refuse to return to work.

A: In any week in which the workers are performing full-time work and receiving wages for that work, they are not unemployed and are not entitled to the additional stimulus unemployment weekly benefit.

Q: How much income can employees gross without interfering with their unemployment? Is this ½ of the employee's gross state unemployment benefit or ½ of the gross state unemployment benefit plus the stimulus bonus?

A: One-half of the employee's gross state unemployment benefit, called the weekly benefit amount (WBA). If the individual earns more than one-half of their WBA, but less than the WBA, there is a formula to calculate a reduced benefit amount for that week. But even if for a given week an individual will receive a reduced benefit down to as low as \$1, if it is during the period that the individual is eligible for the \$600 federal supplement, the individual will receive the full \$600 federal supplement plus the reduced unemployment benefit.

Q: If an employer wants to use Paycheck Protection Program funding to back pay an employee the difference of their unemployment benefits and their regular pay, what are the potential repercussions? What is IDES's guidance for both the employer and the employee?

A: Payments such as these that are made to an employee will likely be considered wages under the UI Act, and they would act to disqualify or reduce the benefit amount the claimant would receive. If the payment is less than one-half of the claimant's weekly benefit amount (excluding dependent allowance and FPUC), there would be no deduction.

Q: Are individuals who were employed by religious institutions eligible for unemployment? If not, is there any conversation about expanding benefits to cover those individuals?

A: As a general rule, if an individual was employed by a church or convention or association of churches, that individual would not be eligible for unemployment benefits unless the individual's employer had elected to have its employees covered under the Unemployment Insurance Act. However, some churches have voluntarily elected coverages. If an individual worked for an employer that is a religiously oriented, nonprofit organization or school that is distinct from a church, the individual may be eligible for unemployment insurance benefits, depending on whether certain factors are met. If it turns out that an individual who works for one of these employers is not eligible for regular unemployment insurance benefits, then the individual may be eligible for federal Pandemic Unemployment Assistance (PUA) if they meet the other eligibility requirement of PUA, which relate specifically to COVID-19.

Q: What do employees do if their employer is furloughing them for one week per month? Are they entitled to unemployment benefits?

A: Employees in this situation should file a claim for unemployment benefits the week they are furloughed. IDES will then determine if they are entitled to benefits. The answer will depend on whether they are earning more than their weekly benefit amount.

Q: The Governor was asked about a specific IDES case during his press conference. The case is of a woman who paid back an overpayment last year but was told by IDES that although she qualified for UI benefits, she is still subject to an 18-week nonretroactive penalty and can't get benefits right now. Can you provide guidance on this issue?

A: Under state law (820 ILCS 405/901), individuals who commit unemployment fraud are required by law to repay the benefits they received, pay a penalty, and serve penalty weeks. This is a statutory requirement that IDES must follow.

Q: What should an individual do if they are asked to verify that they are looking for a job, even though they have indicated their unemployment is COVID-19 related? (Sen. Morrison)

A: Even though an individual's unemployment is Covid-19 related, they are still required to be able, available and actively seeking work. To meet the able and available A&A requirements, someone temporarily laid off due to COVID just has to be ready to return to work. IDES has adopted rules surrounding actively seeking to make search requirements more flexible.

Q: I understand that job search information is no longer necessary - Is that portion of the weekly certification eliminated for now? How does that now work/look for the applicant?

A: No, the job search information portion of the weekly certification has not been eliminated. IDES adopted emergency rules suspending the requirement that a claimant register with Illinois Job Link if their unemployment is due to a temporary lay-off resulting from COVID-19. To meet the able and available A&A requirements, someone temporarily laid off due to COVID just must be ready to return to work.

Q: What is certification, and after certification, what happens?

A: Once an individual files a claim for UI benefits and is found eligible, they are required to certify every two weeks that they are, among other things, able, available, and actively seeking work. Barring any ineligibility issue raised by the answers on the certification, a claimant would be paid UI benefits for the weeks certified.

Q: How long will it take unemployed individuals to receive a debit card in the mail, or direct deposit in their bank account?

A: An individual who chooses to receive UI benefits via a debit card will receive the debit card mailed to the address on record with IDES within two weeks of filing the claim. The process is more expedient if the claimant chose direct deposit but probably within the same two-week period.

Q: If an individual does not have a linked bank account, is a debit card the only alternative option?

A: Yes – A debit card is the only alternative. IDES does not create and mail UI benefit checks anymore.

Q: Can people change how they receive their benefits? Example: From a debit card to a linked bank account.

A: The process can be completed by contacting the claimant service center at 800-244-5631

Q: Before COVID-19, part of the unemployment process was bi-weekly certification on certain days of the week, i.e. Tuesdays and Thursdays either online or by phone. Will IDES be sending out letters notifying people of this, or will this be part of the process change and become automatic since the state is also not requiring that the unemployed seek work?

A: The process will not change. Claimant are required to certify for benefits bi-weekly. When an individual files a claim for UI benefits, they will receive a “UI Finding” mailed to the address IDES has on record. Within the UI Finding, the claimant will be notified of the weekday they are to certify and their first certification date.

Please note: The Covid-19 crisis does not alleviate the requirement that a claimant must look for work. IDES adopted emergency rules suspending the requirement that a claimant register with Illinois Job Link if their unemployment is due to a temporary lay-off resulting from COVID-19. To meet the able and available A&A requirements, someone temporarily laid off due to COVID just must be ready to return to work. IDES rules have been modified so that what constitutes a search for work is more flexible.

Q: Will IDES provide a one-page brief for individuals who have applied for unemployment benefits?

A: The following pamphlet is provided to online filers and is available on the Department’s website: <https://www2.illinois.gov/ides/IDES%20Forms%20and%20Publications/CLI111L.pdf>

Q: Are regular unemployment benefits retroactive to the date of the job loss?

A: Generally, no. If an individual is out of work through no fault of their own, under IDES rules (56 Ill. Adm. Code 2720.105), the individual is required to file for unemployment “no later than the end of the first week in which the claimant is separated from work.” If the claim is filed after that, under the same rule, the claim will begin in the week in which it was filed unless it is backdated. IDES will backdate a claim if the claimant was unable to file due to system or staffing limitations, or because the system did not yet exist.

Q: Will individuals who were forced to hold off to apply for unemployment benefits be made whole for the delay in time?

A: If an individual's claim is backdated, and the individual certifies for all backdated weeks and is eligible for each backdated week, the individual will receive unemployment benefits for each week of eligibility.

Q: What should an individual do if they submitted their claim with the wrong Social Security number?

A: Please contact the claimant service center at 800-244-5631.

PAYMENTS, DIRECT DEPOSIT AND DEBIT CARDS

Q: Would the Department issue a debit card to someone before determining he/she was monetarily eligible for benefits?

A: The claimant will be sent a debit card as soon as his/her claim is processed. The fact that a card has been sent does not necessarily mean the claimant has been determined eligible. We do this so that once benefits are authorized, the claimant does not need to wait for the bank to mail the debit card.

Q: We've seen an increased number of people who receive debit cards, but report there are zero funds on the cards, despite their online account showing a balance. What direction should we give these individuals?

A: Please contact the claimant service center at 800-244-5631.

Q: For people who don't have a linked bank account, is there a slower process in receiving checks and the money from stimulus?

A: When a claimant files an unemployment claim, they can elect to receive benefits through direct deposit or a debit card. The debit card is mailed soon after the claim is filed and processed. The funds are placed on the debit card approximately two days after the claimant certifies every two weeks. IDES encourages claimants to sign up for direct deposit.

Q: Also, for traditional workers covered by unemployment, they have received a debit card but no funds are available on it. How will this be corrected? Do they reapply, will funds be loaded onto card without reapplying?

A: Individuals receive a blank debit card when they apply. If they are determined eligible, funds are deposited to their debit card.

Q: What criteria and eligibility requirements there will be for 1099 contract workers and gig workers like yoga teachers, Uber or Lyft drivers, musicians, etc.?

A: IDES is bound by confidentiality laws which prohibit the department from discussing eligibility of specific employers and workers. In general, if an individual works for an employing unit and receives compensation for their services, then upon being unemployed through no fault of their own, that individual may be eligible for benefits. Under Illinois law, individuals are covered by the unemployment insurance program unless the employing unit can show otherwise. To show that a worker's services are not covered, the employing unit must show that the worker is free from direction and control over the performance of the work, both under the contract of service and in fact; that the services of the worker are outside the employing unit's usual course of business or is performed outside all places of business of the employing unit; and that the worker is engaged in their own independently established trade, occupation, profession, or business. If the employing unit cannot show all of these criteria, then the individual may be eligible for regular unemployment insurance, provided that all of the other requirements for eligibility are met.

Q: How will IDES define unemployment for 1099 employees?

A: USDOL guidance provides the following:

"In general, PUA provides up to 39 weeks of benefits to qualifying individuals who are otherwise able to work and available for work within the meaning of applicable state UC law, except that they are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in Section 2102(a)(3)(A)(ii)(I) of the CARES Act and listed below:

- The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- A member of the individual's household has been diagnosed with COVID-19;
- The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- 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;

- 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;
- 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;
- 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;
- 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;
- The individual has to quit his or her job as a direct result of COVID-19; or
- The individual's place of employment is closed as a direct result of the COVID-19 public health emergency.

Q: How long will unemployment cover 1099 employees?

A: "1099 employee" is not synonymous with "independent contractor," because not all 1099 employees are independent contractors, which are exempt from regular unemployment.

- If EB does not trigger on in Illinois, a claimant with sufficient wages in employment in his or her base period is potentially eligible for (1) 26 weeks regular UI; (2) 13 weeks PEUC; and (3) 13 weeks PUA.
- If EB does trigger on in Illinois, a claimant with sufficient wages in employment in his or her base period is potentially eligible for (1) 26 weeks regular UI; (2) 13 weeks PEUC; (3) 13 weeks EB, but no PUA.
- If an individual is not eligible for regular UI (e.g., an independent contractor) but his or her unemployment is related to COVID-19, he or she is potentially eligible for up to 39 weeks of PUA.

A: How does a 1099 employee get the extra \$600/week?

"1099 employee" is not synonymous with "independent contractor," because not all 1099 employees are independent contractors, which are exempt from regular unemployment.

Anyone receiving at least \$1 in weekly benefits under the regular UI program, PEUC, or PUA, is potentially eligible for Federal Pandemic Unemployment Compensation (FPUC) for any week beginning March 29, 2020 and ending July 25, 2020.

Q: When will 1099 employees be allowed to apply for unemployment through IDES?

A: “1099 employee” is not synonymous with “independent contractor,” because not all 1099 employees are independent contractors, which are exempt from regular unemployment.

In Illinois, every individual who is unemployed or underemployed should file a claim for unemployment benefits, even if they believe they are not covered by the unemployment system. There are two reasons Illinoisans currently unemployed through no fault of their own should still file a claim for regular unemployment benefits with IDES, even if they have been told they're not covered by the state's regular unemployment insurance program - because they're an independent contractor, part of the “gig economy,” or for some other reason.

First, it's possible that whoever told them they were not covered was wrong. Workers who are employees covered by the unemployment insurance system are sometimes told they're not. Even if an individual's employer does not consider the worker to be covered and doesn't pay unemployment taxes on the individual's wages, the individual can qualify for benefits if IDES determines he or she is covered under state law. An employer's failure to contribute to the unemployment system will not impact a claimant's eligibility for benefits. Although eligibility for benefits cannot be guaranteed, nothing prohibits people from filing a claim for regular benefits, as long as they truthfully complete the application.

Second, the PUA program has been established for individuals who are unemployed for reasons attributable to COVID-19 and not covered by the state's regular unemployment insurance program. To establish eligibility under the new program, the claimant will have to demonstrate he/she is not eligible under the regular program. Applying for and being denied benefits under the regular program can help establish eligibility under the new temporary program.

Q: Pandemic Unemployment Assistance (PUA) allows for 39 weeks of coverage and PEUC allows for another 13. Are PUA-eligible applicants the only ones who could potentially receive 52 weeks of UI or would this also apply to traditional UI applicants?

A: PEUC benefits are only available to individuals who are eligible for regular unemployment benefits, which is limited to 26 weeks. PUA benefits are eligible to individuals who do not qualify for regular unemployment benefits.

- If EB does not trigger on in Illinois, a claimant with sufficient wages in employment in his or her base period is potentially eligible for (1) 26 weeks regular UI; (2) 13 weeks PEUC; and (3) 13 weeks PUA.
- If EB does trigger on in Illinois, a claimant with sufficient wages in employment in his or her base period is potentially eligible for (1) 26 weeks regular UI; (2) 13 weeks PEUC; (3) 13 weeks EB, but no PUA.

- If an individual is not eligible for regular UI (e.g., an independent contractor) but his or her unemployment is related to COVID-19, he or she is potentially eligible for up to 39 weeks of PUA.

Q: Should self-employed individuals apply for unemployment now, or should they wait?

A: In Illinois, every individual who is unemployed or underemployed should file a claim for unemployment benefits, even if they believe they are not covered by the unemployment system. There are two reasons Illinoisans currently unemployed through no fault of their own should still file a claim for regular unemployment benefits with IDES, even if they have been told they're not covered by the state's regular unemployment insurance program - because they're an independent contractor, part of the "gig economy," or for some other reason.

First, it's possible that whoever told them they were not covered was wrong. Workers who are employees covered by the unemployment insurance system are sometimes told they're not. Even if an individual's employer does not consider the worker to be covered and doesn't pay unemployment taxes on the individual's wages, the individual can qualify for benefits if IDES determines he or she is covered under state law. An employer's failure to contribute to the unemployment system will not impact a claimant's eligibility for benefits. Although eligibility for benefits cannot be guaranteed, nothing prohibits people from filing a claim for regular benefits, as long as they truthfully complete the application.

Second, the PUA program has been established for individuals who are unemployed for reasons attributable to COVID-19 and not covered by the state's regular unemployment insurance program. To establish eligibility under the new program, the claimant will have to demonstrate he/she is not eligible under the regular program. Applying for and being denied benefits under the regular program can help establish eligibility under the new temporary program.

Q: Why is it that IDES cannot simply accept gig worker applications in the existing system?

A: "Gig workers" can and should apply for regular unemployment.

Q: Is there a certain type of information you need on a gig worker application that cannot be handled by the application form now that necessitates this delay?

A: "Gig workers" can and should apply for regular unemployment.

Q: We already give presumptive approval when someone applies for Medicaid and verify benefits on the back end. Why can't IDES presumptively approve gig workers for unemployment benefits in the same manner?

A: "Gig workers" can and should apply for regular unemployment.

As for presumptive approvals, an individual's WBA is generally based on their prior income history. IDES needs to obtain this information before knowing how much to pay an individual in benefits. If IDES paid individuals before confirming their eligibility, IDES would need to take that money back if the individual was determined ineligible, which can cause hardship on someone that is not working.

Q: Once gig worker and self-employment benefits start, what date will be used as the beginning of unemployment? I presume it would be the date of executive order requiring the 1st shelter in period and non-essential business closing date.

A: The U.S. Department of Labor has determined that under the CARES Act, PUA payments are available for claimants who were unemployed due to COVID-19 related reasons beginning the week of February 2, 2020. PUA payments end on December 26, 2020. IDES will backdate claims to the first week of unemployment due to COVID-19 related reasons.

Q: Why is Illinois so far behind on helping self-employed workers when other states don't seem to have the same issues?

A: IDES talks with other states and has heard we are all in a similar situation, having to each create a new system from scratch because the federal government chose not to create one system for all 50 states.

Q: Other than delays in federal funds flowing through to IDES, what can the Governor do to make sure that the State is ready to comply with new 1099 claims, and process pending applications more quickly?

A: IDES staff are working as quickly as possible to create this new system.

Q: What qualifies as an independent contractor for the expanded eligibility, and who makes that determination?

A: Under Illinois law, individuals are covered by the unemployment insurance program unless the employing unit can show otherwise. To show that a worker's services are not covered, the employing unit must show that the worker is free from direction and control over the

performance of the work, both under the contract of service and in fact; that the services of the worker are outside the employing unit's usual course of business or is performed outside all places of business of the employing unit; and that the worker is engaged in their own independently established trade, occupation, profession, or business. If the employing unit cannot show all these criteria, then the individual may be eligible for regular unemployment insurance, provided that all of the other requirements for eligibility are met.

Trained IDES staff determine whether an individual is an employee or an independent contractor.

Q: Displaced independent contractors and 1099 employees are receiving mixed messages about when they should file for benefits. The governor indicated at his April 13th press conference that everyone should be filing. The IDES website says not to. Which is it?

A: IDES's website has been updated to encourage all to file today.

Q: What happens if someone applies for unemployment benefits, but does not yet qualify?

A: An individual who is not monetarily eligible may be qualified to receive UI benefits under the PUA program if the reason for the unemployment is Covid-19 related and they are able, available, and actively seeking work.

Q: Will payments for 1099/independent contractors be backdated? If so, how will the backdate be determined?

A: The U.S. Department of Labor has determined that under the CARES Act, PUA payments are available for claimants who were unemployed due to COVID-19 related reasons beginning the week of February 2, 2020. PUA payments end on December 26, 2020. IDES will backdate claims to the first week of unemployment due to COVID-19 related reasons upon adjudication of the claim, which involves interviewing the claimant and reviewing documents.

Q: Some people have both W-2 income and 1099 income. What guidance should they follow regarding applying for benefits?

A: If an individual loses all work from their W-2 job and their 1099 services, they should file a claim for unemployment insurance benefits, inform IDES of this, and provide IDES all information that IDES requests in order to properly handle the claim. If the individual loses some or all work from their W-2 job but is still performing their 1099 services, the individual should inform IDES of this fact, so that IDES can properly handle their claim. If the individual is employed full-time in their W-2 job but loses some or all work in their 1099 services, the individual does not meet the

definition of an unemployed individual; in which case, the individual would not be eligible for benefits.

Q: When does IDES expect the 1099 worker applications to be operational?

A: All individuals should apply today. The new system is expected to be operation in the middle of May.

Q: Per the Governor's comments on Monday, can you confirm that 1099 workers will be able to start receiving benefits on May 11?

A: All individuals should apply today. The new system is expected to be operation in the middle of May.

Q: Should 1099 workers apply now for regular unemployment benefits, even though they will be denied?

A: In Illinois, every individual who is unemployed or underemployed should file a claim for unemployment benefits, even if they believe they are not covered by the unemployment system. There are two reasons Illinoisans currently unemployed through no fault of their own should still file a claim for regular unemployment benefits with IDES, even if they have been told they're not covered by the state's regular unemployment insurance program - because they're an independent contractor, part of the "gig economy," or for some other reason.

First, it's possible that whoever told them they were not covered was wrong. Workers who are employees covered by the unemployment insurance system are sometimes told they're not. Even if an individual's employer does not consider the worker to be covered and doesn't pay unemployment taxes on the individual's wages, the individual can qualify for benefits if IDES determines he or she is covered under state law. An employer's failure to contribute to the unemployment system will not impact a claimant's eligibility for benefits. Although eligibility for benefits cannot be guaranteed, nothing prohibits people from filing a claim for regular benefits, as long as they truthfully complete the application.

Second, the PUA program has been established for individuals who are unemployed for reasons attributable to COVID-19 and not covered by the state's regular unemployment insurance program. To establish eligibility under the new program, the claimant will have to demonstrate he/she is not eligible under the regular program. Applying for and being denied benefits under the regular program can help establish eligibility under the new temporary program.

Q: What options are available for 1099 workers who are essential, but their hours have been vastly reduced. Will they be eligible for benefits? If so, how will that be calculated?

A: If IDES determines that a “1099 worker” was actually performing services in “employment” under Illinois law, then IDES will determine that individual’s weekly benefit amount (WBA) by a formula making use of the wages paid the individual in their base period. The base period is the first four of the last five completed quarters before the date of claim. If IDES determines that a “1099 worker” did not perform services in “employment” under Illinois law, then IDES will determine whether that individual is eligible for benefits under the federal Pandemic Unemployment Assistance (PUA) program. If the individual is eligible for benefits under PUA, then IDES will determine that individual’s WBA by a formula making use of the individual’s income in prior years. In any event, current income may offset benefit eligibility or amount.

Q: Will IDES expand state benefit coverage for these individuals or is their only option the federal unemployment in the CARES Act (PUA)?

A: IDES is bound by the requirements of the Unemployment Insurance Act, 820 ILCS 405/100 et seq., which does not allow for independent contractors to receive state unemployment insurance benefits. IDES has no authority to extend benefits beyond state law.

Q: Regardless of when PUA is implemented, will PUA benefits be retroactive to when the claimant first became a covered individual on or after 2/2?

A: Once the program is running, PUA benefits will be retroactive to when the claimant became unemployed due to COVID-19 or 2/2, whichever is later.

Q: Will PUA or PEUC recipients qualify for the federally funded \$600? (Sen. Feigenholtz)

A: Yes.

Q: If an employee receives state unemployment retroactively from last day of employment will the individual be able to receive the Federal supplement retroactively to their last day of work also?

A: The U.S. Department of Labor has determined that under the CARES Act, the Federal Pandemic Unemployment Compensation (FPUC) \$600 supplement is available for each week that a claimant is eligible for at least \$1 in benefits between March 29, 2020 and July 25, 2020.

Q: If an employee is paid bimonthly, how will the employee be receiving the additional \$600?

A: Anyone receiving at least \$1 in weekly benefits under the regular UI program, PEUC, or PUA, is potentially eligible for Federal Pandemic Unemployment Compensation (FPUC) for any week beginning March 29, 2020 and ending July 25, 2020. FPUC will be paid at the same time the claimant is paid for regular unemployment, PEUC, or PUA.

Q: Is the additional \$600 from the Federal government automatically be added to the unemployment amount that is deposited weekly?

A: Yes, anyone eligible for at least a \$1 weekly benefit amount will be eligible. The first week for which FPUC may be paid is the week beginning March 29, 2020; and the last week that FPUC may be paid is the week ending July 25, 2020.

Q: Will the federally funded \$600 weekly benefit also be afforded to those who were laid off due to COVID, but applied for unemployment benefits prior to the CARES Act?

A: The U.S. Department of Labor has determined that under the CARES Act, the \$600 FPUC supplement is available for each week that a claimant is eligible for at least \$1 in unemployment benefits only between March 29, 2020 and July 25, 2020, regardless of when they filed.

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION (PEUC, EXTENSION TO REGULAR UI BENEFITS)

Q: If someone exhausted their state benefits before the Governor's Executive Order, Are they eligible for an additional 13 weeks of benefits now? If yes, when may they begin applying?

A: Yes, the department is in the process of determining eligibility and will notify the claimant.

Q: Does the Pandemic Emergency Unemployment Compensation (PEUC) apply to an individual that has exhausted unemployment benefits in February?

A: Potentially. Guidance received by the US Department of Labor provides: "PEUC is a temporary program that provides up to 13 weeks of 100% Federally-funded benefits to individuals who...have exhausted all rights to regular compensation under state law or Federal law with respect to a benefit year that ended on or after July 1, 2019..." However, the first possible week for which PEUC may be paid is the week beginning March 29, 2020. The last week that PEUC may be paid is the week ending December 26, 2020.

Q: If an individual has exhausted the 26 weeks of unemployment, would they automatically be enrolled for PEUC or would they need to reapply?

A: If the individual has exhausted benefits and is no longer certifying, the department will determine eligibility, notify the claimant and automatically enroll the claimant in PEUC.

Q: Pandemic Emergency Unemployment Compensation (PEUC) is 100% federally funded and Illinois would just need to complete a 2-page application to be reimbursed for implementation costs such as hiring personnel and updating technology. Is IDES aware of this? Applications are due April 30th.

A: IDES is aware and has submitted the appropriate paperwork.

Q: As a business owner, I have received notice from IDES, requiring a "Reply Due Date". Unfortunately, the date for which a response was due, was the same date that I received the notice. Will there be any relief on these due dates?

A: You should retain the envelope, bearing the postmark date, and explain the issue in your response.

Q: Many small businesses are concerned that their unemployment contribution rates will go up as a result of COVID-19. Many states have already implemented legislation that provides that no COVID-19 related layoffs will be chargeable to the employer. Does IDES plan to raise rates or increase UI contributions from businesses who have laid off staff who are collecting UI benefits? If yes, how will the rate increase be decided as to not burden small and local businesses?

A: Assuming no legislative changes are made, employer rates will likely be higher next year. An employer that has laid someone off can typically expect a higher tax rate in the future. However, employers will not be charged for any of the benefits paid under the CARES Act (PUA, FPUC, PEUC).

Q: Will employers receive a rate increase due to employees filing for unemployment to make up for reduced hours?

A: Assuming no legislative changes are made, yes. An employer that has laid someone off can typically expect a higher tax rate in the future. However, employers will not be charged for any of the benefits paid under the CARES Act (PUA, FPUC, PEUC).

Q: Will there be a press release, mass email, or some other notification that people will know the system is back in working order and that they should try again?

A: IDES's unemployment application and web site are now functioning smoothly.

Q: Is IDES staff all working or are some off because of COVID?

A: IDES service delivery staff are all working to take claims, assist claimants, and adjudicate matters. Some employees in other areas of IDES that are familiar with unemployment insurance issues but whose duties prevent them from being able to work at home have been temporarily reallocated to assist the service delivery staff. Many other employees are working from home, including revenue staff and administrative law judges.

Q: Are those working, on a rotation so having to work less days?

A: IDES staff who are working from home or in local offices are working overtime to address the unprecedented number of claims. We are currently acquiring and implementing the necessary technology to allow those employees working in local offices to work from home while maintaining data confidentiality.

Q: Is the IDES staff all working from home and is their IT capacity is lagging there?

A: Some service delivery staff are working from local offices. IDES is currently acquiring and implementing the necessary technology to allow those employees to work from home while maintaining data confidentiality. Employees who are currently working from home occasionally encounter technology problems, but the Department of Information Technology has been working with IDES employees to fix those issues when they arise.

Q: Has there been any amendments to their work environment to make it safe for them to physically go to work (if that is part of the IT issue)?

A: IDES offices have been closed to the public since March 17, 2020. Some local offices have been rearranged to provide for better social distancing. IDES is encouraging employees to practice social distancing while at work. Employees can wear masks and gloves in the office, and IDES will reimburse them up to \$50.00 for the cost. Each office is cleaned and sanitized daily.

Q: Why can employees from other state agencies not be transferred to help at IDES?

A: Unemployment insurance involves complex issues and requires extensive training to respond to claimants' fact-specific questions. IDES is contracting with Deloitte to supply an initial wave of 150 temporary Illinois workers to enter claims on the front end of the process. These workers will all have a background in customer service in other business areas, and their experience and training answering calls will translate to the work they will perform for IDES. They will be entering claims based on information provided by the claimant and will transfer questions and other issues to regular IDES staff.

Q: How easily/quickly can IDES work to contract with third parties to hire helpdesk client support staff that are able, and legally qualified, to answer technical questions, provide an update on the status of a claim, and answer other IDES claimant questions?

A: IDES is contracting with Deloitte to supply an initial wave of 150 temporary workers to enter claims on the front end of the process. These workers will all have a background in customer service in other business areas, and their experience and training answering calls will translate to the work they will perform for IDES. They will be entering claims based on information provided by the claimant and will transfer questions and other issues to regular IDES staff.

Q: Are there features in the current contractual relationship between IDES and AFSCME that prevent, or discourage, the contracting-out of additional helpdesk functions in cases of statewide emergency?

A: In general, the collective bargaining agreement would require negotiations between AFSCME and the State to hire temporary workers. During the current unprecedented crisis, the union and the State are working well together to obtain the necessary resources, including temporary workers, to assist the people of Illinois in applying for unemployment benefits.

Q: Would it be possible, by legislative action, to create additional resources for personnel at IDES, IEMA, and other State agencies likely to be overtaxed by emergencies to get help from the private sector in future cases of statewide emergency?

A: One of the major hurdles during this crisis is finding and implementing the technology to allow employees to continue their essential duties at home instead of at the office while maintaining confidentiality requirements. IDES believes that acquiring the necessary technology for future emergency use would be beneficial.

IDES discovered that some systems, such as printing and mail issues, are not uniform across state agencies, which limits the ability for inter-agency assistance. Uniformity with these systems could facilitate agencies helping each other in a future emergency.

The suspension of Procurement Code requirements beyond what an “emergency procurement” suspends has been instrumental in assisting IDES to procure needed resources, such as building a computer system to administer PUA and hiring temporary workers. Outside of a proclamation of disaster, there may not currently be a system in place to suspend those requirements for a future emergency.

A post-crisis discussion between all agencies of the common problems and solutions encountered during this crisis could be beneficial in helping each agency expand upon their emergency planning.

Q: Some states have moved away from their traditional filing portal and created a new online presence. Claims are being filed in record numbers right now, and the Governor on April 13 described various steps to increase online capability. Has IDES tracked any and all instances of system failures? Is this something IDES is confident will not be an issue with its systems going forward? What steps is the Administration taking to prevent massive failures, and can claimants be confident that their claim will actually be accepted?

A: IDES’s unemployment application and web site are now functioning smoothly.

Q: IDES has instituted a temporary new policy of staggered inputs. Under this policy, Illinois residents are supposed to spell out their own last names, and then submit online UI applications and helpdesk phone requests, in a staggered order depending on the first letters of their last name. Was this policy instituted after careful study?

A: The call center phone equipment was never designed for the unprecedented nature of the current crisis. Due to the number of claims being filed all at once, the equipment could not handle the high call volume. Asking claimants to file according to the first letter of their last name was intended to allow a more orderly filing process and help in reducing wait times. This process has been implemented in other states with high claim volumes.

Q: Is the staggered-input policy working? Do the people of Illinois seem to understand it? Are they complying with it? If it is not working, why not get rid of it?

A: IDES is currently analyzing the data regarding this process.

Q: Other states have increase Unemployment Staffing by hiring temporary workers to process claims and handle call volume. Does the labor agreement with IDES workers permit subcontracting or hiring temporary help for increased volume? Is this an impediment to meeting this demand?

A: IDES is contracting with an outside vendor to supply an initial wave of 150 temporary workers to enter claims on the front end of the claims process. We expect these workers to be trained and working soon.

Q: During a March 19th Employment Security Advisory Board (ESAB) meeting run by IDES, staff acknowledged that there would be an unprecedented amount of unemployment claims due to COVID-19. Why has it taken so long to hire staff and update the IDES website so people can successfully apply for unemployment? It has been almost a month.

A: The typical hiring process takes 6 months. IDES is working with CMS to expedite the hiring process during this pandemic. IDES's unemployment application and web site are now functioning smoothly.

Q: The IDES website won't accept my username or password. It is stating I have a previous profile and won't let me build another one. What are the next steps?

A: Please call the IDES claimant call center at (800) 244-5631.

Q: What do I do if I am getting an error code 500 and it kicks me out of the system?

A: Please call the IDES claimant call center at (800) 244-5631.

Q: The website is asking me to create a new PIN and when I try, it tells me to call the 800 number, which I cannot get through and now unable to reset it. What should I do in these circumstances?

A: Please call the IDES claimant call center at (800) 244-5631.

Q: If someone feels they have answered a question incorrectly - how can they best adjust the answer or even ask a question....will there be more people answering questions on the 1-800 number and be able to get into the system and make adjustments for the constituents?

A: Mistakes in information provided to IDES can be addressed and rectified by a service representative. Claimant can rectify an error by contacting a service representative via the Claimant Service Center at 800-244-5631. The Claimant Service Center is working at full capacity and is in the process of adding additional service representatives.

Q: When will site be fully functional to handle all caseload?

A: IDES's unemployment application and web site are now functioning smoothly.

Q: What is IDES's timeline to implement the new elements of Illinois unemployment system?

A: PUA is expected to be the final piece of the CARES Act to be implemented, with a projected start date of May 11, 2020.

Q: The Governor, in his FY21 budget proposal, contemplated the merger of IDES into DOL. Is this plan still in place as of April 2020?

A: The two agencies are exploring possible efficiencies that may be achieved by a merger.

Q: The 2020 coronavirus outbreak could have been expected to trigger significant economic effects. Was there an IDES UI contingency plan in place prior to the Governor's shelter in place order and the resulting closing of businesses and places of employment?

A: IDES had a continuous operations plan, but such plan only contemplated the closure of one facility or, even when all facilities closed, the scenarios only contemplated closures for a few days.

Q: Is there consideration in pushing for and adopting legislation that will help businesses avoid further financial issues once Illinoisans start returning to work and the economy begins to recover? Are you open to freezing benefit contributions or the state's experience factor to keep liability low and free up needed cash for businesses?

A: Only the General Assembly has the authority to pass legislation effectively insulating employers from rate increases.

Q: Is there any consideration being given to legislative enactment of a quarterly employer-contribution payment plan as proposed by HB3271/4696 (Mazzochi)? Any other legislation or rules that will help prevent further pressures on employers and resulting job loss?

A: IDES would be happy to discuss those proposals with the General Assembly as it considers them.

Q: Since 2011, the UI system has been on a stabilization ramp to try and keep the fund solvent, this involved decreasing the number of beneficiaries while recalculating the contribution formula. In 2017, business and labor groups agreed to extend the ramp for another two years and then again agreed for an extension in 2019. Is there any change that a massive overhaul of the system is needed after the coronavirus event?

A: A discussion on the solvency of the Trust Fund should occur with the General Assembly and UI stakeholders.

Q: Who is available at IDES to answer legislator questions?

A: Questions can be submitted to James.Preckwinkle@Illinois.gov, and Ciara.Wagoner@Illinois.gov, and we will do our best to get you an answer as soon as possible.

Q: How can legislators submit constituents' requests for claim assistance? How long will it take for the agency to respond to these requests, and can the agency create a confirmation process that requests are being investigated?

A: Questions can be submitted to James.Preckwinkle@Illinois.gov, and Ciara.Wagoner@Illinois.gov, and we will do our best to get you an answer as soon as possible.

Q: What advice should we give people seeking unemployment benefits who cannot access the system online, and who have made reasonable efforts to contact IDES via phone? How can we help these families?

A: Please be aware that the dedicated and trained staff at IDES understand and appreciate the frustration your constituents are experiencing during these unprecedented times. The IDES claims taking process was designed and programmed to meet anticipated volume levels based upon past experiences and worse case scenarios. The Covid-19 crisis is taxing this design. IDES has engaged the service of IT designers and is in the process of hiring personnel to meet the needs of claimants. IDES asks that claimants keep trying if unable to access the online system or by telephone.

Q: What stakeholders are you getting input from for 1099 employees? For realtors, has IAR or Chicago Assn of Realtors been involved in discussions?

A: IDES is following guidance issued by the US Department of Labor.

Q: Can you provide legislators with a one-pager that we can give to small business employers about advising their employees on the unemployment process?

A: Employer can meet their legal obligations for posting notices about Unemployment Insurance by using the one-page document contained on the Department's website (see 56 Ill. Adm. Code 2760.1): <https://www2.illinois.gov/ides/IDES%20Forms%20and%20Publications/Notice.pdf>

Q: How does an individual who has suffered from identity theft apply for unemployment benefits?

A: It is not clear why the identity theft is preventing the individual from applying. Please call the IDES claimant call center at (800) 244-5631.

Q: Illinois has a work sharing law that will allow employers to manage layoffs to spread lost hours across the workforce and retain employees. This is 100% federally funded. Illinois would receive grants to implement and publicize these programs. Will IDES implement this program? This program will allow employees to maintain their salary and stay off unemployment.

A: This program would actually allow employees to collect unemployment. IDES is reviewing the feasibility of implementing this new program.

Q: Does IDES have an updated estimate of our Unemployment Insurance Trust Fund balance? Since it will likely be a deficit, where are we going to get the money to pay unemployment claims?

A: IDES received authority to borrow from the federal government if the Trust Fund balance is insufficient to meet benefit obligations.

Q: Will there be any accommodations for not-for-profits that self-insure for unemployment?

A: Under current Illinois law, so long as the reimbursable employer is chargeable for the claim for benefits during applicable periods, federal funds will contribute 50% of the benefits paid. If the General Assembly passes legislation non-charging all employers for COVID-19-related unemployment cases, the reimbursable employer will not have to make any reimbursements to the trust fund to pay for the benefits paid.

A: Will there only be a reimbursement for only 50% to the SUTA fund for claims?

A: Under current Illinois law, so long as the reimbursable employer is chargeable for the claim for benefits during applicable periods, federal funds will contribute 50% of the benefits paid. If the General Assembly passes legislation non-charging all employers for COVID-19-related unemployment cases, the reimbursable employer will not have to make any reimbursements to the trust fund to pay for the benefits paid.

Q: Has IDES asked for help from the federal government to improve its failures in ensuring that Illinois UI claims are processed in a timely fashion? Is there any additional federal guidance that IDES is awaiting to implement any of the provisions of the CARES Act?

A: IDES asked the federal government to design a single platform that all states could use to implement PUA, instead of all 50 states having to create their own systems.

Q: Will the fund be able to stay above the determined \$1 billion line for benefits to be paid out or will we see a point in the near future when the fund becomes insolvent? At what point does IDES expect to have to ask for an emergency trust fund loan from the U.S. Department of Labor?

A: IDES has authority to borrow from the federal government if the Trust Fund cannot meet benefit obligations.

Q: Many small businesses are concerned that their UI contribution rates will go up as a result of COVID-19. Several businesses which closed and laid off workers in the wake of the pandemic have received notices advising them this may happen. Does IDES plan to raise rates on such businesses? Is there a way that we can be helpful?

A: The General Assembly has the authority to pass legislation effectively insulating employers from rate increases.