

# KNOW YOUR RIGHTS

## Pandemic Unemployment Assistance Benefits During COVID

**Independent contractors, self-employed or gig economy workers, or workers with insufficient work history for regular unemployment** may be eligible for 79 weeks of Pandemic Unemployment Assistance (PUA) benefits. Workers that are eligible to receive PUA benefits can get them through the week ending September 4, 2021.



### Applying for PUA

To apply for PUA benefits in New Mexico, you must first apply for and be denied regular unemployment benefits.

#### To qualify for PUA, workers must certify that they are:

- ▶ Ineligible for regular unemployment, Pandemic Emergency Unemployment Compensation (PEUC), or Federal-State extended benefits (FDEB1);
- ▶ Partially or fully unemployed; AND
- ▶ Are otherwise available and able to work except for ONE of the following reasons:
  - They have symptoms of COVID-19 and are seeking a diagnosis or they or a member of their household were diagnosed with COVID-19
  - They are providing care for a family member or household member with COVID-19
  - They have primary caregiving responsibility for a child or household member who cannot attend school or care facility because it is closed due to COVID-19
  - They have become the major support for their household because the head of the household died as a direct result of COVID-19
  - They were scheduled to start employment and do not have a job or cannot reach their job due to COVID-19
  - They cannot reach their place of employment because of a COVID-19 quarantine or because they have been advised by a healthcare provider to self-quarantine
  - They had to quit their job as a direct result of COVID-19 or their place of employment is closed due to COVID-19, or they had a reduction of hours or a temporary or permanent lay-off due to COVID-19
  - They refuse to return to work that is unsafe or to accept an offer of new work that is unsafe
  - They provide services to an educational institution and are unemployed or partially unemployed because of volatility in their work schedule that is directly caused by the COVID-19 public health emergency.

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## Proving self-employment:

PUA applicants are required to provide documents proving employment or self-employment, such as W-2 forms, paycheck stubs, offer or postponement letters, or earnings statements showing the employer's name and address. Documents must be provided to the Department of Workforce Solutions (DWS) within 21 days of applying for PUA. Note - if you applied before January 31, 2021, you had 90 days to turn in documents.

## Back-dating PUA claims:

Workers filing for PUA can have their claim backdated to the first week that they were unemployed or partially unemployed and were unable or unavailable to work because of a COVID-19 reason. However, applications for PUA that are filed after December 27, 2020, may not be backdated earlier than December 1, 2020.

## PUA appeals:

You have a right to appeal any determination by DWS within 15 days of the decision.

- DWS cannot recover overpaid benefits until you have an opportunity to appeal.
- If you need help, contact NM Legal Aid at 833-545-4357, Monday - Thursday, from 10:00 am - 3:00 pm, or contact the NM Center on Law and Poverty at 505-302-3853.



## Many Overpayments Caused by DWS Can be Waived, Including Amounts Paid Back to DWS

Generally, when an unemployment participant receives more benefits than they were entitled to receive, all overpaid benefits must be re-paid to DWS. However, DWS will waive all PUA overpaid benefits if (1) the PUA participant did not cause the overpayment and (2) paying back the overpayment would cause financial hardship. This waiver is available regardless of when the overpayment occurred. Participants who already paid back their overpayment should receive a refund if they qualify for the waiver. Request a waiver by completing the form sent to you by DWS or that is available on the DWS website.

Be sure that you explain:

- 1) That you did not cause the overpayment. Common mistakes made by DWS include determining benefits using tax documents from 2018 instead of 2019 and using gross income, instead of net income, to determine your benefits. If you are unsure why you were overpaid, explain that you followed the application instructions and did not lie.
- 2) That repaying the overpayment will cause you financial hardship and include ALL the reasons that repaying the overpayment has or will cause you financial hardship. Explain ALL the reasons why paying back this overpayment would be hard on you.



For example, (1) you have no or little savings from which to pay back this money; (2) you are living on a bare minimum and paying back any money would hurt you; (3) you have medical expenses and paying back any amount would hurt you; (4) you are behind on bills and cannot afford to lose any money; (5) you have lost your house, vehicle, or anything valuable due to this pandemic. **Basically, explain that paying back the overpayment would hurt you financially.**