



NELP

National Employment Law Project

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Questions & Answers

About Benefit Extensions under H.R. 3548, the Worker, Homeownership, and Business Assistance Act of 2009

Introduction

After weeks of delays, the Senate passed a substitute for HR 3548 (Unemployment Compensation Extension Act of 2009). The House of Representatives then passed this bill on November 5th and the President signed it into law on Friday, November 6, 2009. These Questions & Answers are based upon the final law which is known as the Worker, Homeownership, and Business Assistance Act of 2009.

Based upon our reading of the new law, we are passing along our best understanding of how the extensions will work under this law in combination with existing benefit extensions. We will update as new guidance is available or new questions come to our attention.

–PLEASE NOTE–

Given the huge volume of extension claims, calling or emailing state unemployment agencies and local workforce agencies will only make it more difficult for state agencies to focus on implementing the new extension and will slow down the process of paying benefits to those who have already exhausted their unemployment benefits. All state agencies will advise jobless workers, including workers who have already exhausted benefits, when and how to apply for these extensions.

Unless you have moved and haven't provided your new address to the state, it shouldn't be necessary to contact the state UI agency unless you do not hear from them by mail in the next two to three weeks. Check your state agency website or your local media for updated information. We expect putting this law into effect to take at least a few weeks in all states, and longer in some states.

You can post comments about extension implementation in your state on www.unemployedworkers.org.

1. Question: What are the basics of the latest extension bill?

Answer: This law helps those jobless workers who have already exhausted all of their federally funded benefits and those running out of benefits in the coming weeks. This latest extension law pays up to 14 added weeks of benefits on top of whatever benefits a jobless worker is or was already entitled to under existing law. In those states with higher unemployment rates (over 8.5 percent), up to another 6 weeks will be paid under the November extension law. This means that a total of 20 added weeks will be paid in 29 states, including the District of Columbia and Puerto Rico, with higher unemployment levels. As a result of the November extension bill, those individuals who have exhausted benefits and those who exhaust benefits in the future will get these longer extensions (although, as noted below, Congress now must take further action to determine how long these extensions will remain in effect for jobless workers running out of benefits in the coming weeks).

2. Question: Will workers who have already exhausted all benefits get these new extension benefits?

Answer: Yes. The November law will pay extensions benefits only for weeks of unemployment happening after its effective date. No “back pay” or “retroactive” benefits will be paid under the November extensions law. The law will be effective the week after it is signed, meaning the week beginning November 8 (week of November 7 in New York) is the first week for which new extension benefits are payable under the law. We expect the fastest states will take at least 3 weeks before they can accept claims under the November extension, and many will take longer.

All states will advise those who have exhausted benefits of how and when to start filing claims for extensions under the latest law. If you have moved since you last filed for benefits, you should file a change of address with your agency, but if you have not moved there is nothing you can or should do until you are notified by your state UI agency. Monitor media reports and agency websites for updates on when your state UI agency is ready to pay extensions under the latest law.

3. Which states will pay 14 weeks and which states will pay 20 weeks of added extension benefits?

Answer: As of this week, 29 states have three-month total unemployment rates averaging over 8.5 percent and will pay up to an additional 20 weeks of Emergency Unemployment Compensation (EUC). Remaining states will pay up to 14 more weeks of EUC under the November extensions. As unemployment rates rise or fall in states, some states may change from a 14 week state to a 20 week state, or vice versa. The U.S. Department of Labor recalculates the unemployment triggers on a weekly basis. Please note that there are 53 UI jurisdictions (the 50 states plus DC, PR, VI) in all.

Here is a NELP table that lists state-by-state information on total extensions available under current law when combined with the November extensions law:

<http://www.nelp.org/page/-/UI/federal.extensions.by.state.pdf?nocdn=1>]In addition, see Answer to Question 6 below about which states pay which extensions.

4. Question: What should jobless workers do to get extensions under this law?

Answer: Most states will not require new applications and will just instruct workers about how to restart filing weekly certifications. Before doing so, state agencies have to reprogram their computers to take claims under the latest law. Depending upon the state, this will take from a few weeks to several weeks. States will advise jobless workers by mailing notices, posting information on their websites, and advising the media of when they are ready to take claims for benefit extensions under the latest law.. Check state agency websites or watch for information in the media, or check with www.unemployedworkers.org.

5. Question: What is going to happen to jobless workers that have only started their extensions and have not yet exhausted benefits?

Answer: Congress must extend the Emergency Unemployment Compensation program prior to the end of 2009 to ensure that all jobless workers can be paid the additional weeks of EUC now provided under the November 2009 extensions. Under current laws, including the latest extension, a maximum of 73 extension weeks are payable in high unemployment states. Lower unemployment levels and different Extended Benefits trigger options mean that some states have as few as 34 extension weeks available. This table shows the total weeks of extensions available in each state: <http://www.nelp.org/page/-/UI/federal.extensions.by.state.pdf?nocdn=1>.

At the same time as these weeks of extensions are potentially payable, the existing Emergency Unemployment Compensation (EUC) program is only fully in place until the end of calendar year 2009 under current law. EUC starts phasing out on December 27, 2009, with final EUC payments taking place the week of May 31, 2010 under existing law. Generally, this means that after December 26th, claimants cannot qualify for a new tier of EUC beyond whatever tier they are collecting under at that time.

For this reason, EUC must be reauthorized by Congress before the end of 2009 or jobless workers running out of benefits in late 2009 and 2010 will not receive the total number of weeks of extensions in 2010 now offered under the latest extension bill. NELP and its allies will post updates on this effort soon.

6. Question: What is the typical sequence of benefits now available to long term jobless workers?

Answer: All workers get regular state unemployment insurance benefits for up to 26 weeks. (Workers not qualifying for a full 26 weeks of regular benefits get a proportionately

shorter period of EUC benefits.) Generally, workers then draw Emergency Unemployment Compensation followed by Extended Benefits, where available. There are several “tiers” of Emergency Unemployment Compensation (EUC) extensions available depending upon state unemployment levels. Extended Benefits are not available in all states. Here is a detailed explanation of how extensions work under current law, including the newly enacted law.

Emergency Unemployment Compensation (EUC) Tiers I and II

Prior to the November extensions, there were two levels of EUC that have been called “tiers.” EUC Tier I (one) paid up to 20 weeks of EUC in all states. EUC Tier II (two) next paid up to 13 additional weeks of EUC in states with high unemployment (defined as 6.0 percent average 3-month total unemployment or more). Tier I remains the same. Now, Tier II is available in all states and provides up to 14 weeks of EUC. As a result, low unemployment states previously paying only 20 weeks of Tier I EUC will now also pay Tier II benefits and furnish up to 14 additional weeks of EUC to those who have already exhausted Tier I and those exhausting Tier I in the future. Only 3 states (NE, ND, and SD) will fall into this low unemployment category at current unemployment levels.

Emergency Unemployment Compensation (EUC) Tier III

Under the November extensions, EUC will have a new Tier III (three) of up to 13 added weeks of EUC in states with high unemployment (defined as 6.0 percent average 3-month total unemployment or more—the same as was previously used for Tier II).

Twenty-one (21) states with three-month average total unemployment rates currently at or above 6.0 percent but below 8.5 percent will pay Tiers I, II, and III EUC under the November extensions. Currently, they are AK,AR,CO,CT,DE,HI,IA,KS, LA,MD,MN,MT,NH,NM,OK,TX, UT,VT,VA,VI, and WY.

Emergency Unemployment Compensation (EUC) Tier IV

The November extension adds EUC Tier IV (four) that will pay up to another 6 weeks of EUC in states with unemployment rates at or above 8.5 percent 3-month average total unemployment. Twenty-nine states will pay Tier IV benefits using unemployment levels as of the first week of November 2009. Currently, they are AL, AZ, CA, DC, FL, GA, ID, IL, IN, KY, ME, MA, MI, MS, MO, NV, NJ, NY, NC, OH, OR, PA, PR, RI, SC, TN, WA, WV, and WI. Tier IV EUC makes a total of 20 weeks of added EUC available.

Again, if unemployment rates rise or falls different EUC tiers will become available in states.

Extended Benefits (EB)

Finally, a separate program, called the Extended Benefits (EB) program is currently triggered on in 39 states. EB pays up to either 13 or 20 additional weeks of benefits, depending upon which EB triggers are part of each state’s UI law and each state’s unemployment level. As of the first week of November, 30 states paid 20 weeks of EB (AL,AK,AZ,CA,DE,DC,FL,GA, ID,IL,IN,KY,ME,MA, MI,MN,MO,NV,NJ,NY,NC,OH,OR,PA,RI,SC,TN,WA,WV,and WI). Nine states were providing 13 weeks of EB (CO,CT,KS,NH,NM,PR,TX,VT, and VA). Note: CT will move into the 20-week category effective with week beginning November 8, 2009.

In completing our NELP table listing available weeks of extensions, we have included weeks of EB as well as weeks of EUC. Again, the number of weeks paid under EB in a state can change, or states might even stop paying EB if unemployment rates fall.

7. Question: How will states combine existing extensions with new options under the November extension law?

Answer: The November extensions law gives states options about continuing to pay EB before paying newly available EUC benefits under the November extensions. Depending upon the ability of states to implement new EUC options under the new law, states may vary the timing and sequencing of EUC and EB benefits. Also, as noted above, the EUC program is only fully in place through the end of 2009.

So, while under current law, jobless workers remaining unemployed would draw regular state UI benefits, EUC Tier I, EUC Tier II, and then EB, this sequence of extensions may now be altered under options offered to states by the November extension law. These options are not furnished to workers and whatever options are selected will apply to all workers in a state. Each state is going to have to examine its options in order to assist the greatest number of jobless workers and reduce disruptions in payments of extensions.

For jobless workers, the major distinction between EUC and EB is the existence of strict job search rules for EB benefits that require keeping a record of job contacts and furnishing that record to state UI agencies. All states have a required number of weekly job contacts for EB benefits. The best course for jobless workers that have started drawing EB is to continue recording job weekly search efforts and reporting those efforts to state agencies unless and until clearly instructed to stop doing so by a state UI agency because the worker has been shifted back to EUC benefits.

In most cases, EUC and EB benefits will be the same dollar amounts. The only important distinction is the work search requirements of EB. When on EB, workers must comply with job search requirements, document their efforts, and provide that record to state UI agencies when instructed to do so. Keep those records for future reference as well.

8. Question: I am currently collecting under my state's Extended Benefits (EB) program. Will my state switch me over to the EUC Tier 3 program or will I continue collecting EB?

Answer: While this decision is made by each state, the new law permits states to continue paying EB to claimants who have filed for at least one week of EB prior to November 8, 2009. This provision of the law was intended to help states insure continuity of benefits to claimants who have already established entitlement under the EB program.

9. Question: I am currently collecting EUC Tier 2 benefits which I will exhaust in two weeks. Under what program would I next file for benefits?

Answer: Under the new law, states only have the option of paying EB prior to paying benefits under the EUC Tier 3 program when the claimant has filed for at least one week of EB prior to the effective date of the new law. This means that if you are exhausting EUC Tier 2 benefits with the week beginning November 8, 2009 or later, you will be required to file next for benefits under the EUC Tier 3 program.

Rules of the Road for UI Claims

1. Read any instructions provided to you by state unemployment agency. Read any information on state agency websites. Learn these rules to avoid hang ups and problems with your claim. You are primarily responsible for your claim and you are not likely to get much help from others.
2. Keep any notices or documents sent to you by a state agency regarding your claim.
3. Keep a copy of anything you send to the agency, and keep notes about when you filed claims or took other actions online or by telephone. Keep these notes.
4. File an appeal from any unfavorable decision. Know appeal time limits and meet them.
5. You need not “write a novel” when appealing. Include your name, claim number or Social Security number, and state that you want to appeal and why you disagree with the decision you are appealing. Keep filing weekly or bi-weekly claims while you are appealing so you can get paid if you win your appeal.
6. File claims by Internet when possible. File later in the day and later in the week to avoid delays, busy signals, and hangups.
7. Comply with job search requirements, especially when drawing Extended Benefits, and document work search and provide records to state UI agencies when instructed.

10. Question: If I am unemployed as of the week ending December 26, 2009, I will still be collecting benefits under the EB or EUC Tier 2 program. Does that mean I will not qualify for EUC Tier 3 or Tier 4 benefits?

Answer: Under current law, you can continue filing for the balance of your entitlement under the program (EB or EUC Tier 2) that you are collecting under as of the week ending December 26th. If you are on EUC Tier 3 at that point, you can collect the balance of your Tier 3 benefits. However in order for all claimants to have full access to benefits under the full range of federal extensions currently in place, Congress needs to reauthorize the entire EUC program before the expiration of the authorizing federal law in December.

11. Question: What if I have had a job since I exhausted my benefits?

Answer: If you have had any sort of employment since you exhausted your benefits but are now either fully or partially unemployed, you will be required to report that employment to the state UI agency as part of the process of reopening your EUC claim. If you separated

from that employment, you will be required to report the reason for separation as well. If you voluntarily left that job or were discharged for a non-economic reason. The state UI agency will need to adjudicate whether or not that reason is disqualifying under state UI law.

Finally, as with all federal extension programs, states are required to determine whether you have had enough recent earnings to re-qualify for a new state UI benefit year before you can establish entitlement to EUC Tier 3 benefits.

