



STATE OF CALIFORNIA
Labor & Workforce Development Agency

GOVERNOR Gavin Newsom • SECRETARY Julie A. Su

Agricultural Labor Relations Board • California Unemployment Insurance Appeals Board
California Workforce Development Board • Department of Industrial Relations
Employment Development Department • Employment Training Panel • Public Employment Relations Board

MEMORANDUM

TO: Sharon Hilliard – Director, Employment Development Department

FR: Julie A. Su – Secretary, Labor and Workforce Development Agency

DATE: March 20, 2020

RE: Expediting Unemployment Insurance (UI) Payments Due to COVID-19

The COVID-19 pandemic has disrupted the lives of workers across California. Unemployment insurance (UI) provides a critical source of security to workers in times like this and an important boost to the economy.

The historically unprecedented increase in the demand for UI claim filing services within a short period of time will challenge the ability of our staff to process claims in a timely manner. I know that the entire EDD team is working tirelessly to handle the claims that the Department is receiving from workers who have lost their jobs or have had their hours reduced. Despite those efforts, given the purposes of the UI program, we need to take additional action to ensure that Californians eligible for UI receive their benefit payments as soon as possible.

Given the acute need to mitigate the financial hardship our workers are suffering during this emergency, I am directing EDD to begin immediately paying incoming claims for UI benefits prior to making a final eligibility determination with respect to whether the claimant is able to work and available for work. *See* 42 U.S.C. § 503(a)(12). EDD may utilize this expedited process until such time as I direct otherwise. To fulfill EDD’s obligation to administer the UI program consistent with section 303(a)(1) of the Social Security Act (42 U.S.C. § 503(a)(1)), EDD’s determination process must still:

- Include identity checks and wage verification to establish a claim; and
- Ensure employers remain part of the claims adjudication process, including by continuing to have the right to protest any claims they deem inappropriate.

When it makes a final eligibility decision, if appropriate, EDD must act to recover any resulting overpayments that might occur. My direction is consistent with formal U.S. Department of Labor program guidance letters, including the recent letter addressing the COVID-19 crisis. *See* UI Prog. Ltr. No 10-20 at 1 (U.S. DOL March 12, 2020) (explaining UI “flexibilities related to COVID-19”); UI Prog. Ltr. No. 01-16 (U.S. DOL Oct. 1, 2015) (explaining procedures regarding recovering overpayments); Attachment 1 to UI Prog. Ltr. No. 1145 (U.S. DOL Nov. 12, 1971).

Accelerating our response in this way advances the overall purposes of the UI program. As the U.S. Supreme Court noted, in creating the UI program, Congress was—as best it could—seeking to devise a program that would “make insurance payments available precisely on the nearest payday following . . . termination.” *Cal. Dep’t of Human Resources Dev. v. Java*, 402 U.S. 121, 130 (1971). Indeed, paying workers as soon as possible will ultimately bolster the businesses that need immediate support from us as well. *Id.* at 133 (“[T]hrough stabilization of [unemployed workers’] purchases you will keep other industries from going downward, and immediately you spread work by that very device.”) (quoting Stmt. of Sec’y of Labor Frances Perkins). Thus, expediting UI payments plays a crucial role in not only providing some much-needed security for our workers, but also in stabilizing California’s economy.

My direction today augments the aggressive efforts already taken at EDD to address the COVID-19 emergency, which have included:

- Redirecting staff from other branches throughout EDD to support claims processing;
- Increasing staff overtime including Saturdays and Sundays;
- Investigating the redirection of staff from other LWDA departments and other state agencies to assist in processing claims; and
- Implementing automated processes where possible to speed up the additional manual procedures needed to process claims.

Expediting UI payments as much as possible is one necessary step in helping to provide some measure of support for our state’s most vulnerable workers. To that end, I know we will continue to collaborate to deploy the best safety net we can for California.

I wanted to thank you and the thousands of employees across EDD for all of the work you have done and will be doing in the time to come. While we face daunting challenges ahead, I am confident we will meet those challenges and provide the highest level of service to the people of California.