

by subsections (a), (b), (c), and (d) [amending this section] shall apply as if included in the enactment of the CARES Act (Public Law 116-136), except that no amount shall be payable by virtue of such amendments with respect to any week of unemployment commencing before the date of the enactment of this Act [Dec. 27, 2020].”

Pub. L. 116-260, div. N, title II, §209(b), Dec. 27, 2020, 134 Stat. 1956, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 2102 of the CARES Act (Public Law 116-136) [enacting this section].”

Pub. L. 116-260, div. N, title II, §241(b), Dec. 27, 2020, 134 Stat. 1960, provided that:

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by subsection (a) [amending this section] shall apply to any individual who files a new application for pandemic unemployment assistance or claims pandemic unemployment assistance for any week of unemployment under section 2102 of the CARES Act (15 U.S.C. 9021) on or after January 31, 2021.

“(2) SPECIAL RULE.—An individual who received pandemic unemployment assistance under section 2102 of the CARES Act (15 U.S.C. 9021) for any week ending before the date of enactment of this Act [Dec. 27, 2020] shall not be considered ineligible for such assistance for such week solely by reason of failure to submit documentation described in clause (iii) of subsection (a)(3)(A) of such section 2102, as added by subsection (a).

“(3) PRIOR APPLICANTS.—With respect to an individual who applied for pandemic unemployment assistance under section 2102 of the CARES Act (15 U.S.C. 9021) before January 31, 2021, and receives such assistance on or after the date of enactment of this Act, clause (iii) of subsection (a)(3)(A) of such section shall be applied by substituting ‘90 days’ for ‘21 days’.”

Pub. L. 116-260, div. N, title II, §242(b), Dec. 27, 2020, 134 Stat. 1960, provided that: “The requirements imposed by the amendments made by this section [amending this section] shall apply, with respect to agreements made under section 2102 of the CARES Act [Pub. L. 116-136, enacting this section], beginning on the date that is 30 days after the date of enactment of this Act [Dec. 27, 2020].”

Pub. L. 116-260, div. N, title II, §263(b), Dec. 27, 2020, 134 Stat. 1963, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply with respect to weeks beginning on or after the date that is 30 days after the date of enactment of this section [Dec. 27, 2020].

“(2) SPECIAL RULE.—In the case of any State that made a good faith effort to implement section 2102 of division A of the CARES Act (15 U.S.C. 9021) in accordance with rules similar to those provided in section 625.6 of title 20, Code of Federal Regulations, for weeks ending before the effective date specified in paragraph (1), an individual who received pandemic unemployment assistance from such State for any such week shall not be considered ineligible for such assistance for such week solely by reason of failure to submit a recertification described in subsection (c)(5) of such section 2102.”

HOLD HARMLESS FOR PROPER ADMINISTRATION OF 2020 AMENDMENT

Pub. L. 116-260, div. N, title II, §201(e), Dec. 27, 2020, 134 Stat. 1952, provided that: “In the case of an individual who is eligible to receive pandemic unemployment assistance under section 2102 [of] the CARES Act (15 U.S.C. 9021) as of the day before the date of enactment of this Act [Dec. 27, 2020] and on the date of enactment of this Act becomes eligible for pandemic emergency unemployment compensation under section 2107 of the CARES Act (15 U.S.C. 9025) by reason of the amendments made by section 206(b) of this subtitle [amending section 9025 of this title], any payment of pandemic unemployment assistance under such section 2102 made after the date of enactment of this Act to such individual during an appropriate period of time, as

determined by the Secretary of Labor, that should have been made under such section 2107 shall not be considered to be an overpayment of assistance under such section 2102, except that an individual may not receive payment for assistance under section 2102 and a payment for assistance under section 2107 for the same week of unemployment.”

FIRST APPLICATION LIMITATION

Pub. L. 116-260, div. N, title II, §201(f), Dec. 27, 2020, 134 Stat. 1952, provided that: “In the case of a covered individual whose first application for pandemic unemployment assistance under section 2102 of the CARES Act (15 U.S.C. 9021) is filed after the date of enactment of this Act [Dec. 27, 2020], subsection (c)(1)(A)(i) of such section 2102 shall be applied by substituting ‘December 1, 2020’ for ‘January 27, 2020’.”

TECHNICAL CORRECTION FOR THE COMMONWEALTH OF NORTHERN MARIANA ISLANDS

Pub. L. 116-260, div. N, title II, §265, Dec. 27, 2020, 134 Stat. 1964, provided that: “A Commonwealth Only Transitional Worker (as defined in section 6(i)(2) of the Joint Resolution entitled ‘A Joint Resolution to approve the “Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America”, and for other purposes’ (48 U.S.C. 1806)) shall be considered a qualified alien under section 431 of Public Law 104-193 (8 U.S.C. 1641) for purposes of eligibility for a benefit under section 2102 or 2104 of the CARES Act [15 U.S.C. 9021, 9023].”

§ 9022. Flexibility in paying reimbursement

The Secretary of Labor may issue clarifying guidance to allow States to interpret their State unemployment compensation laws in a manner that would provide maximum flexibility to reimbursing employers as it relates to timely payment and assessment of penalties and interest pursuant to such State laws.

(Pub. L. 116-136, div. A, title II, §2103(a), Mar. 27, 2020, 134 Stat. 317.)

§ 9023. Emergency increase in unemployment compensation benefits

(a) Federal-State agreements

Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the “Secretary”). Any State which is a party to an agreement under this section may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) Provisions of agreement

(1) Federal Pandemic Unemployment Compensation

Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents’ allowances) payable for any week shall be equal to—

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount equal to the amount specified in paragraph (3) (in this section referred to as “Federal Pandemic Unemployment Compensation”), plus

(C) an additional amount of \$100 (in this section referred to as “Mixed Earner Unemployment Compensation”) in any case in which the individual received at least \$5,000 of self-employment income (as defined in section 1402(b) of title 26) in the most recent taxable year ending prior to the individual’s application for regular compensation.

(2) Allowable methods of payment

Any Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation provided for in accordance with paragraph (1) shall be payable either—

(A) as an amount which is paid at the same time and in the same manner as any regular compensation otherwise payable for the week involved; or

(B) at the option of the State, by payments which are made separately from, but on the same weekly basis as, any regular compensation otherwise payable.

(3) Amount of Federal Pandemic Unemployment Compensation

(A)¹ In general

The amount specified in this paragraph is the following amount:

(i) For weeks of unemployment beginning after the date on which an agreement is entered into under this section and ending on or before July 31, 2020, \$600.

(ii) For weeks of unemployment beginning after December 26, 2020 (or, if later, the date on which such agreement is entered into), and ending on or before March 14, 2021, \$300.

(4) Certain documentation required

An agreement under this section shall include a requirement, similar to the requirement under section 9021(a)(3)(A)(iii) of this title, for the substantiation of self-employment income with respect to each applicant for Mixed Earner Unemployment Compensation under paragraph (1)(C).

(c) Nonreduction rule

(1) In general

An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that the number of weeks (the maximum benefit entitlement), or the average weekly benefit amount, of regular compensation which will be payable during the period of the agreement (determined disregarding any Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation) will be less than the number of weeks, or the average weekly benefit amount, of the average weekly benefit amount of regular compensation which would otherwise have been payable

during such period under the State law, as in effect on January 1, 2020.

(2) Maximum benefit entitlement

In paragraph (1), the term “maximum benefit entitlement” means the amount of regular unemployment compensation payable to an individual with respect to the individual’s benefit year.

(d) Payments to States

(1) In general

(A) Full reimbursement

There shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(i) the total amount of Federal Pandemic Unemployment Compensation and Mixed Earner Unemployment Compensation paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) Terms of payments

Sums payable to any State by reason of such State’s having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) Certifications

The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) Appropriation

There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) Applicability

An agreement entered into under this section shall apply—

(1) to weeks of unemployment beginning after the date on which such agreement is entered into and ending on or before July 31, 2020; and

(2) to weeks of unemployment beginning after December 26, 2020 (or, if later, the date on which such agreement is entered into), and ending on or before March 14, 2021.

(f) Fraud and overpayments

(1) In general

If an individual knowingly has made, or caused to be made by another, a false state-

¹ So in original. No subpar. (B) has been enacted.

ment or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation to which such individual was not entitled, such individual—

(A) shall be ineligible for further Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18.

(2) Repayment

In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation was without fault on the part of any such individual; and

(B) such repayment would be contrary to equity and good conscience.

(3) Recovery by State agency

(A) In general

The State agency shall recover the amount to be repaid, or any part thereof, by deductions from any Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation payable to such individual or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the Federal Pandemic Unemployment Compensation or Mixed Earner Unemployment Compensation to which they were not entitled, in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the State.

(B) Opportunity for hearing

No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(4) Review

Any determination by a State agency under this section shall be subject to review in the

same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(g) Application to other unemployment benefits

Each agreement under this section shall include provisions to provide that—

(1) the purposes of the preceding provisions of this section, as such provisions apply with respect to Federal Pandemic Unemployment Compensation, shall be applied with respect to unemployment benefits described in subsection (i)(2) to the same extent and in the same manner as if those benefits were regular compensation; and

(2) the purposes of the preceding provisions of this section, as such provisions apply with respect to Mixed Earner Unemployment Compensation, shall be applied with respect to unemployment benefits described in subparagraph (A), (B), (D), or (E) of subsection (i)(2) to the same extent and in the same manner as if those benefits were regular compensation.

(h) Disregard of additional compensation for purposes of Medicaid and CHIP

The monthly equivalent of any Federal pandemic unemployment compensation paid to an individual under this section shall be disregarded when determining income for any purpose under the programs established under titles XIX and title XXI² of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.).

(i) Definitions

For purposes of this section—

(1) the terms “compensation”, “regular compensation”, “benefit year”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(2) any reference to unemployment benefits described in this paragraph shall be considered to refer to—

(A) extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970);

(B) regular compensation (as defined by section 85(b) of title 26) provided under any program administered by a State under an agreement with the Secretary;

(C) pandemic unemployment assistance under section 9021 of this title;

(D) pandemic emergency unemployment compensation under section 9025 of this title; and

(E) short-time compensation under a short-time compensation program (as defined in section 3306(v) of title 26).

(Pub. L. 116-136, div. A, title II, §2104, Mar. 27, 2020, 134 Stat. 318; Pub. L. 116-260, div. N, title II, §§ 203, 261(a), (b)(1), Dec. 27, 2020, 134 Stat. 1953, 1961.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (h), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and

² So in original.

XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (i)(1), (2)(A), is section 205 of Pub. L. 91-373, which is set out in a note under section 3304 of Title 26, Internal Revenue Code.

AMENDMENTS

2020—Subsec. (b)(1)(B). Pub. L. 116-260, §261(a)(1)(A), substituted “, plus” for period at end.

Pub. L. 116-260, §203(b)(1)(A), substituted “amount equal to the amount specified in paragraph (3)” for “amount of \$600”.

Subsec. (b)(1)(C). Pub. L. 116-260, §261(a)(1)(B), added subpar. (C).

Subsec. (b)(2). Pub. L. 116-260, §261(b)(1)(A), inserted “or Mixed Earner Unemployment Compensation” after “Federal Pandemic Unemployment Compensation” in introductory provisions.

Subsec. (b)(3). Pub. L. 116-260, §203(b)(1)(B), added par. (3).

Subsec. (b)(4). Pub. L. 116-260, §261(a)(2), added par. (4).

Subsec. (c)(1). Pub. L. 116-260, §261(b)(1)(A), inserted “or Mixed Earner Unemployment Compensation” after “Federal Pandemic Unemployment Compensation”.

Subsec. (d)(1)(A)(i). Pub. L. 116-260, §261(b)(1)(B), inserted “and Mixed Earner Unemployment Compensation” after “Federal Pandemic Unemployment Compensation”.

Subsec. (e). Pub. L. 116-260, §203(a), amended subsec. (e) generally. Prior to amendment, text read as follows: “An agreement entered into under this section shall apply to weeks of unemployment—

“(1) beginning after the date on which such agreement is entered into; and

“(2) ending on or before July 31, 2020.”

Subsec. (f). Pub. L. 116-260, §261(b)(1)(A), inserted “or Mixed Earner Unemployment Compensation” after “Federal Pandemic Unemployment Compensation” wherever appearing.

Subsec. (g). Pub. L. 116-260, §261(b)(1)(C), substituted “provide that—” and pars. (1) and (2) for “provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (i)(2) to the same extent and in the same manner as if those benefits were regular compensation.”

Subsec. (i)(2)(E). Pub. L. 116-260, §203(b)(2), added subpar. (E).

STATE'S RIGHT OF NON-PARTICIPATION

Pub. L. 116-260, div. N, title II, §261(c), Dec. 27, 2020, 134 Stat. 1962, provided that: “Any State participating in an agreement under section 2104 of the CARES Act [15 U.S.C. 9023] may elect to continue paying Federal Pandemic Unemployment Compensation under such agreement without providing Mixed Earner Unemployment Compensation pursuant to the amendments made by this section [amending this section and section 9025 of this title]. Such amendments shall apply with respect to such a State only if the State so elects, in which case such amendments shall apply with respect to weeks of unemployment beginning on or after the later of the date of such election or the date of enactment of this section [Dec. 27, 2020].”

TECHNICAL CORRECTION FOR THE COMMONWEALTH OF NORTHERN MARIANA ISLANDS

Commonwealth Only Transitional Workers to be considered qualified aliens under section 1641 of Title 8, Aliens and Nationality, for purposes of eligibility for a benefit under this section, see section 265 of div. N of Pub. L. 116-260, set out as a note under section 9021 of this title.

§ 9024. Temporary full Federal funding of the first week of compensable regular unemployment for States with no waiting week

(a) Federal-State agreements

Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the “Secretary”). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Requirement that State law does not apply a waiting week

A State is eligible to enter into an agreement under this section if the State law (including a waiver of State law) provides that compensation is paid to individuals for their first week of regular unemployment without a waiting week. An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the State law no longer meets the requirement under the preceding sentence.

(c) Payments to States

(1) Full reimbursement

Except as provided in paragraph (3), there shall be paid to each State which has entered into an agreement under this section an amount equal to 100 percent of—

(A) the total amount of regular compensation paid to individuals by the State for their first week of regular unemployment; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) Terms of payments

Sums payable to any State by reason of such State's having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) Partial reimbursement

With respect to compensation paid to individuals for weeks of unemployment ending after December 31, 2020, paragraph (1) shall be applied by substituting “50 percent” for “100 percent”.

(d) Funding

(1) Compensation

(A) In general

Funds in the Federal unemployment account (as established by section 905(g))¹ of

¹ So in original. See References in Text note below.