

Supplemental Unemployment Benefits Authorized After CARES Act Supplement Expires

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President Donald Trump has [authorized](#) the creation of the Lost Wage Assistance (LWA) Program to support individuals unemployed as a result of the COVID-19 pandemic.

Under the LWA Program, the Federal Emergency Management Agency (FEMA) will provide grants to participating states, territories, and the District of Columbia to deliver lost wage assistance to unemployment recipients. Eligible unemployment recipients may receive up to \$400 per week to supplement their unemployment benefits beginning August 1, 2020, although it may take several weeks before individuals receive such benefits.

The LWA Program is intended to replace the Federal Pandemic Unemployment Compensation Program created by the [CARES Act](#), which provided an additional \$600 per week to individuals receiving unemployment benefits and expired the last workweek prior to July 31, 2020.

How Will the LWA Program Operate?

The LWA Program will operate through a cost-sharing agreement between the federal and state governments. FEMA is authorized to allocate \$44 billion in grants to states wishing to participate in the LWA Program.

To receive the grant money, states will be required to enter into an agreement with FEMA that provides that the federal government will cover 75% (or \$300) of the weekly supplement, while individual states are responsible for 25% (or \$100) of the weekly supplement. States will continue to oversee the administration of unemployment benefits and make the supplemental payments. The U.S. Department of Labor has clarified that the state contribution can include funds used to pay regular unemployment benefits, which means unemployment recipients would receive only the \$300 per week federal supplement. Alternatively, states seeking to provide the maximum \$400 per week supplement, would need to allocate additional state funds to cover any payment above the \$300 federal supplement.

Currently, FEMA has entered into agreements with Arizona, Colorado, Idaho, Iowa, Louisiana, Maryland, Missouri, Montana, New Mexico, Oklahoma, and Utah to provide the supplemental benefits.

Who is Eligible for Supplemental Benefits?

The LWA Program requires certain minimum requirements to be satisfied in order to receive the weekly supplement. To be eligible, an individual must receive *at least \$100 per week* of any of the following benefits for the week they are seeking unemployment benefits:

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Additionally, individuals must provide self-certification that they are unemployed or partially unemployed due to disruptions caused by the COVID-19 pandemic.

The LWA supplemental benefit is payable to individuals beginning on August 1, 2020, until December 27, 2020, or until:

- FEMA exhausts the \$44 billion allocated towards the LWA Program;
- The Disaster Relief Fund's (the account designated to fund the LWA Program) balance decreases to \$25 billion; or
- Congress enacts legislation that provides an unemployment supplement or similar compensation for individuals who are unemployed or underemployed due to the COVID-19 outbreak.

Important Issues to Consider

The LWA Program is intended to provide additional unemployment assistance after the [CARES Act's \\$600 per week supplement expired on July 31, 2020](#). The LWA supplement, however, differs from the CARES Act supplement in a few critical ways:

1. Unemployment recipients may receive only \$300 or \$400 in LWA supplemental income each week, versus the \$600 that was authorized under the CARES Act.
2. Unemployment recipients must receive at least \$100 in unemployment benefits to receive the LWA supplement. Under the CARES Act, anyone who received even a \$1 of unemployment assistance was eligible for the \$600 supplement. This change means that many lower-income individuals who qualify for limited benefits (or individuals receiving smaller, partial benefits due to other income sources) will be ineligible for the LWA Program's unemployment supplement.
3. States are required to develop a self-certification process to enable unemployment recipients to self-certify the need for supplemental assistance.

In addition to these differences, delays in processing the LWA supplements are possible, as states will need to enter into agreements with FEMA and implement changes to their unemployment programs to accept the certifications required under the LWA Program.

While states work to implement the LWA Program, the overall legality of the LWA Program may be challenged. A successful challenge would result in termination of benefits. Moreover, Congress continues to debate proposals for additional COVID-19 relief. If a proposal is approved by Congress, it would replace the LWA Program and the benefits afforded thereunder.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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