



FAQ's Regarding MI Unemployment Implications due to Coronavirus/COVID-19

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Is there a difference between laying my staff off (temporary leave) vs. terminating them due to lack of work? Yes. In both cases the employee would be eligible for unemployment benefits (assuming they earned enough in wages to qualify), but the wording you use could affect the employee's ability to remain eligible for other federal assistance, both current programs and new potential programs. The [guidance provided by The Department of Labor and Economic Opportunity](#) is to indicate to your staff that you are putting them on a temporary leave/temporary lay-off vs. terminating them.

Do employers need to submit claims on behalf of their employees in order for the employees to receive benefits? You can instruct your employees to file on their own behalf. You should be providing employees with [this form](#) when you let them know that they are being temporarily laid off. Here are a few other helpful links to assist them with the process:

- <https://www.michigan.gov/documents/uia/160 - Claiming UI Benefit In Michigan - Jan2014 444213 7.pdf>
- <https://www.michigan.gov/documents/uia UC1901 76146 7.pdf>
- <https://www.michigan.gov/coronavirus/0,9753,7-406-98158-521985--,00.html>

If the employer is temporarily closing their place of business or temporarily laying off workers, should they complete the waiver of the work registration and seeking work requirements for their laid off worker(s) before the employees file for unemployment benefits? Under the traditional unemployment system, the answer to this was yes. To be on the safe side, I had been instructing my clients to request this waiver by logging into their Michigan Web Account Manager (MiWAM) at www.michigan.gov/uia and clicking on the Seeking Work Waiver link. However, [this fact sheet put out by UIA](#) states that the work search requirements have been waived for everyone right now as a result of the governor's executive order. So, if you didn't submit a waiver, it looks like your employees will still have their work search requirements waived.

If an employee elects to use available sick/vacation/PTO to cover a portion of their layoff, does this affect their ability to receive unemployment benefits? It depends on how much they earn and/or how many days they receive compensation (for hours worked, severance pay and/or paid time off bank payouts). Employees have to report any earnings they receive when they call into the Unemployment Insurance Agency to certify for benefits every two weeks. Receiving earnings may mean that they don't also receive a UI check for that week, but it would not disqualify them from receiving UI benefits the following week. Historically, here is how the state determined if the employee will receive unemployment benefits in addition to other forms of compensation for a week in which they receive the additional payment:

The amount unemployment benefits will be reduced by compensation/remuneration is determined in the following way:

- 1. If the compensation (for hours worked, severance pay and/or paid time off bank payouts) earnings attributed to a week equals or exceeds 1½ times the claimant's weekly benefit amount (which is currently capped at \$362/week), then the claimant is entitled to no unemployment benefits for the week.*
- 2. If the claimant's earnings are less than 1½ times the claimant's weekly benefit amount but greater than the claimant's weekly benefit amount, then the full amount of the compensation earnings payment is subtracted from 1½ times the claimant's weekly benefit amount (and the claimant's balance of weeks of benefit eligibility will be reduced by 1 week, if the claimant claims benefits for that week).*
- 3. If the earnings payment is equal to, or less than, the claimant's weekly benefit amount, then half the compensation earnings payment is subtracted from the claimant's weekly benefit amount (and the balance of weeks of benefit eligibility will be reduced by 1 week if the claimant claims that week).*

Can an employee receive some compensation from their employer in the form of wages, severance or a stipend/bonus and still receive UI benefits? It depends on how much they earn and/or how many days they receive compensation (for hours worked, severance pay and/or paid time off bank payouts). Employees have to report any earnings they receive when they call into the Unemployment Insurance Agency to certify for benefits every two weeks. Receiving earnings may mean that they don't also receive a UI check for that week, but it would not disqualify them from receiving UI benefits the following week. Historically, here is how the state determined if the employee will receive unemployment benefits in addition to other forms of compensation for a week in which they receive the additional payment:

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Is the Work Share program through UIA different from underemployment or supplemental wages to offset UI benefits (as described in the question above)? Yes. The [Work Share program](#) permits employers to maintain operational productivity during declines in regular business activity instead of laying off workers. With the plan, rather than being laid off, eligible employees work a reduced number

of hours in the work week and receive a portion of weekly unemployment benefits. This is a formal program that must be established with UIA in advance and it does have certain requirements in order for an employer/employee to qualify. It could be a good option for a business that is still open, but is planning for a reduction in hours. It's important to note that the Governor's executive order allows all employers to take advantage of the program, regardless of whether the employer's reserve in the employer's experience account as of the most recent computation date preceding the date of the employer's application is a positive number.

What is the maximum amount an employee can receive in unemployment benefits? How is that calculated? The weekly benefit amount (WBA) is determined by an employee's quarterly wages. Multiply the highest amount of wages paid to the employee in any quarter of the base period (last 4-5 quarters) by 4.1%. Employees can receive an additional \$6/dependent up to five dependents. The maximum weekly benefit amount is \$362.00.

How long before employees receive their benefits? I have heard that the Agency is looking to expedite payments so that employees receive them within 1 week of applying. Typically, the process would take ~2 weeks after applying and then the Agency would backdate the first payment to cover that first week. Payments are received weekly thereafter.

How many weeks can an employee receive UI benefits for? The number of weeks allowed is determined by multiplying the employee's total base period wages by 43% and then dividing by your weekly benefit amount and rounding down to the nearest half week. The maximum number of weeks is typically 20, but the recent executive order by Governor Whitmer extended that to 26 weeks for any new claims filed between 3/16 and 4/14/20. The minimum number of weeks an employee would receive benefits for is 14 – assuming they continue to meet the eligibility requirements (still out of work or working a reduced schedule for a qualifying reason).

Will the employer's unemployment account be charged for benefits paid out as a result of COVID-19 or will those charges be waived and paid through another source? As of now, employers' accounts will be charged for benefits UNLESS an executive order required the employer to close or limit operations. Employers listed in executive orders will not have their benefit accounts charged. There has been a lot of lobbying for the Governor to expand the list of businesses covered under executive order to mitigate these unemployment charges, so this is a fluid situation that you will need to monitor.

Can a part-time employee or a new employee draw unemployment benefits if I have to lay them off or reduce their work schedules? Possibly. Eligibility for unemployment is determined by a mathematical equation based on total earnings an employee received in the last year (from all employers combined). If the employee earned enough during that period of time AND is out of work through no fault of their own or meets one of the new eligibility requirements related to COVID-19, then they would qualify for benefits. Here is the mathematical equation that UIA uses to determine eligibility:

Regular (Standard Base Period) method: There must be wages in at least two quarters in the base period. For benefit years beginning Jan. 1, 2020, one quarter's wages must be at least \$3,744; and total wages for all four quarters must equal at least one and a half times the highest amount of wages paid in any quarter of the base period ($\$3,667 \times 1.5 = \$5,616$).

OR

Alternate Earnings Qualifier (AEQ): (a) You must have wages in at least two quarters; and (b) total wages for all four quarters must equal at least 20 times the state average weekly wage (SAWW). For 2020, the AEQ amount is \$20,742 [20 x \$1,037.10 (SAWW) = \$20,742].

If I set up my business as a corporation and am paid as an employee of my business (as opposed to a sole proprietor or a partnership) and have unemployment taxes taken out of my regular W-2 paycheck, am I eligible to file for unemployment benefits for myself? According to the UIA website, I believe you are eligible to apply. Ultimately, UIA determines whether or not you meet the eligibility requirements so you won't know for sure until you apply.

If I lay my staff off due to lack of work will they still be covered under my health insurance plan? That depends on how your insurance plan determines eligibility for coverage. Some plans require that your employees are 'actively employed' in order to receive health insurance coverage. Given the current situation, several insurance carriers are implementing more flexible rules around eligibility for coverage so you need to consult with your carrier for details. If you are not able to continue traditional coverage for those employees who are laid off, then you may be able to extend their coverage through COBRA. If you are not large enough to offer COBRA then you will need to make a business determination based on how your insurance carrier responds.

Are there other ways to provide compensation to my staff that don't involve them filing for unemployment? Yes. There are many creative solutions that employers are working through to provide some form of compensation to staff during this temporary shut down or slowdown that would be more than what an employee would receive in UI benefits. Here are just a few things to consider:

- If your business is still open, but experiencing a significant drop in revenue, you might consider temporary reductions in pay for hours worked (across the board) rather than laying off a handful of staff. This would allow all of your staff to still receive a paycheck, even if it is reduced. Remember, UI benefits max out at \$362/week so a reduction in pay may still be a better option for your staff than unemployment would be. This current situation would qualify as 'business necessity' if you need to reduce pay, reduce hours and/or convert your salaried (exempt) employees to hourly (non-exempt) and pay them only for actual hours worked. The limitations on reducing pay are:
 - Non-exempt (hourly) employees can't have their pay reduced below minimum wage.
 - Exempt (salary) employees can't have their pay reduced below \$684/week if you want to keep them classified as 'exempt'. You could drop them below this earning threshold if you reclassify them as 'non-exempt' and pay them as hourly employees.

Reducing hours may also qualify an employer for the [Work Share program](#) through UIA, so that would be worth investigating to see if it is right for you/your business.

- You could allow your staff to draw from other banks of paid time off (including paid holidays) that they have already earned/accrued or would be entitled to if they worked for the full year. In other words, you could waive any current waiting periods for new employees to access time off banks and you could frontload those banks or allow your employees to borrow against a future balance to get them through the next few weeks before having to reduce pay/hours or have them draw unemployment.

- You could draw on a line of credit, take out a personal loan or investigate funding through the [emergency disaster SBA loans](#) that will be made available in order to cover payroll at current or reduced rates for a temporary period of time before employees would be forced to draw unemployment.
- [Grant paid leave through the new “Families First Coronavirus Response Act” for employees who qualify for ‘Emergency Paid Sick Leave’ and/or ‘Emergency Family and Medical Leave’](#). If you have employees who meet the eligibility requirements and have a qualifying reason to access these new banks of time off, then they would receive compensation (up to a maximum amount). The amount the employer pays to employees through these expanded leave provisions will be refunded to the employer in the form of tax credits.

OTHER GREAT LINKS TO CHECK OUT:

Unemployment Implications:

- <https://www.michamber.com/covid-19-unemployment-benefits-faqs>
- [COVID-19 UIA PowerPoint Slides](#)

‘Families First Coronavirus Response Act’ Overview:

- https://gop-waysandmeans.house.gov/faq-coronavirus-legislation/?utm_source=2019+House+GOP+Staff+List&utm_campaign=4ba1968fdc-EMAIL_CAMPAIGN_2019_01_31_08_56_COPY_01&utm_medium=email&utm_term=0_a8407dc016-4ba1968fdc-147393897
- <https://www.michamber.com/sites/default/files/Final%20Phase%20II%20House%20Bill%20Summary.pdf>