

United States Senate
WASHINGTON, DC 20510

February 17, 2021

The Honorable Al Stewart
Acting Secretary of Labor
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Acting Secretary Stewart:

We write to request that you review and consider revising guidance issued on January 8, 2021, specifying that workers “who [are] working reduced hours while [their] place of employment continues to operate” are not eligible for Pandemic Unemployment Assistance (PUA).¹ We believe workers who have their hours reduced or are temporarily laid off when their employer reduces business operations due to COVID-19 are covered under PUA, and that the Department of Labor has the authority under the law to clarify its guidance to ensure these workers are eligible for PUA benefits.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act established PUA to ensure that workers who lose their jobs during the pandemic and are not traditionally eligible for unemployment insurance can receive needed support during COVID-19. At the beginning of the pandemic when this law was passed, a number of states and communities enacted restrictions forcing businesses to temporarily close. Since then, the economy has gradually reopened, but in many cases businesses have remained partially closed in order to comply with public health guidance like social distancing. These partial closures have kept many Americans out of work and in need of income support.

Partial closures are very common for businesses like restaurants that are operating with limited indoor dining capacity, or only offering take-out services, and have resulted in many service workers working reduced hours or being temporarily laid off even though their employer remains open. The recent guidance directs states to deny PUA eligibility to workers who have been impacted by partial closures. This is of particular concern for workers who do not have sufficient qualifying earnings to be considered eligible for state unemployment, including workers who are newly hired.

¹ [Unemployment Insurance Program Letter \(UIPL\) 16-20 Change 4](#)

It is clear from the language of the CARES Act that PUA is intended to cover workers who are “unemployed, partially unemployed, or unable or unavailable to work”, which would include workers affected by partial closures. Additionally, understanding that the impacts of COVID-19 on workers would likely shift throughout the pandemic, Congress gave the Secretary of Labor additional flexibility under section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act to establish, “any additional criteria,” through which an individual may qualify for PUA.

We ask that the Department clarify that workers impacted by partial closures or their employer scaling back business operations are eligible for PUA, or use its authority under 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act to ensure these workers are eligible. This clarification is vital so that these workers can make ends meet during the pandemic.

Thank you for your attention to this matter.

Sincerely,



Margaret Wood Hassan
United States Senator



Ron Wyden
United States Senator



Jeanne Shaheen
United States Senator



Sherrod Brown
United States Senator



Mark R. Warner
United States Senator