

May 13, 2021

The Honorable Marty Walsh  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

Dear Secretary Walsh:

In recent days, Republican Governors across the country have abandoned unemployed workers in their states and indicated they will no longer offer life-saving federal unemployment aid. Next month, over 1.1 million workers in Alabama, Arkansas, Georgia, Idaho, Iowa, Mississippi, Missouri, Montana, North Dakota, South Carolina, South Dakota, Tennessee, Utah, and Wyoming will be at risk of losing some or all of the unemployment benefits Congress extended in the American Rescue Plan.

I am writing to remind you of your congressionally-mandated requirement to provide Pandemic Unemployment Assistance (PUA) benefits to workers ineligible for state unemployment aid and urging you to ensure workers receive these benefits even when states threaten to take it away. It is critical that the Department of Labor does everything in its power to ensure that jobless Americans continue to receive this aid as the law intended.

The PUA program has served as a backstop for our broken and outdated unemployment insurance (UI) system for over a year. State UI laws often exclude workers who are misclassified as independent contractors, part-time workers, and low-wage workers, and in all of these categories, workers of color are locked out of the system at much higher rates than white workers are. The benefit amounts offered are far too often much too low to provide any measure of economic security. State UI laws are also unequipped to support workers for the length necessary in this pandemic and recession, and the permanent federal program that is supposed to be of use during recessions and other crises is fatally flawed and simply put, doesn't work. Congress stepped in to make up for these inadequacies last March in the CARES Act and has extended them through September 6, 2021 to ensure that jobless Americans are supported as our economy recovers and we get workers back to good-paying jobs.

The CARES Act requires that you provide PUA benefits to every eligible worker. Section 2102(b), concerning PUA, reads:<sup>1</sup>

*The Secretary shall provide to any covered individual unemployment benefit assistance while such individual is unemployed, partially unemployed, or unable to work for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation*

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<sup>1</sup> <https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf>

The Department of Labor, under former Secretary Scalia, acknowledged this obligation in a memo released on June 5, 2020 to the Department of Labor Office of the Inspector General:<sup>2</sup>

*The Secretary of Labor (Secretary) must provide PUA benefits to an individual who is determined to be eligible under the method described above. Under Section 2102(b), the Secretary "shall" provide to any covered individual unemployment benefit assistance while such individual is unemployed, partially unemployed, or unable to work for the weeks of such unemployment with respect to which he or she is not entitled to any other unemployment compensation. **The relevant language is not discretionary.***

The CARES Act gives states discretion over other pandemic-related unemployment insurance programs, such as Federal Pandemic Unemployment Compensation and Pandemic Emergency Unemployment Compensation. However, Congress did not grant states the ability to strip PUA benefits away from vulnerable workers. Further, the CARES Act requires that PUA benefits include the \$300 top-off— even if states opt-out of this supplement for other benefit programs.

The CARES Act, section 2102(d)(1)(A), clearly states that the amount of PUA shall be:

***the weekly benefit amount authorized under the unemployment compensation law of the State** where the covered individual was employed, except that the amount may not be less than the minimum weekly benefit amount described in section 625.6 of title 20, Code of Federal Regulations, or any successor thereto; **and the amount of Federal Pandemic Unemployment Compensation** under section 2104 of this title*

According to the Government Accountability Office, the minimum PUA benefit is below the poverty level in 29 states.<sup>3</sup> The \$300 federal supplement has allowed jobless workers across the country to keep food on the table and roof over their heads. Allowing state governors to cut this assistance off will guarantee jobless Americans plunge into poverty.

As Secretary, you are obligated to ensure this aid gets to workers. To ensure that obligation is met, I urge you to commit to holding states accountable for their role in administering PUA benefits. Workers who lack access to childcare, have lost employer-sponsored health insurance, and fear for their health and safety as we work to get every American vaccinated are entitled to these benefits. They will be forced into poverty—either with poor jobs with unfair wages or no income at all—if you fail to provide these benefits.

Thank you in advance for your attention to this important matter.

Sincerely,



Bernard Sanders  
United States Senator

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<sup>2</sup> <https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-20-002-03-315&y=2020&t=x>

<sup>3</sup> <https://files.gao.gov/reports/GAO-21-191/index.html>