

1 **CHAPTER 815. UNEMPLOYMENT INSURANCE**

2
3 **PROPOSED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**
6

7 **ON APRIL 20, 2021, THE TEXAS WORKFORCE COMMISSION PROPOSED THE RULES**
8 **BELOW WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.**

9
10 Estimated Publication Date of the Proposal in the *Texas Register*: **May 7, 2021**
11 Estimated End of Comment Period: **June 7, 2021**
12

13 The Texas Workforce Commission (TWC) proposes the following new sections to Chapter 815,
14 relating to Unemployment Insurance:

- 15
- 16 Subchapter A. General Provisions, §815.4
- 17 Subchapter F. Extended Benefits, §815.175
- 18

19 TWC proposes amendments to the following sections of Chapter 815, relating to Unemployment
20 Insurance:

- 21
- 22 Subchapter G. CARES Act Provisions, §§815.180 - 815.185
- 23

24 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

25 The purpose of the proposed Chapter 815 rule change is in accordance with:

- 26 --the Families First Coronavirus Response Act (FFCRA), Public Law (P.L.) 116 - 127, which
- 27 contained Division D, the Emergency Unemployment Insurance Stabilization and Access Act of
- 28 2020 (EUISSA), enacted March 18, 2020;
- 29 --the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116 - 136, enacted
- 30 March 27, 2020;
- 31 --the Consolidated Appropriations Act, 2021, P.L. 116 - 260, enacted December 27, 2020, which
- 32 contained the Continued Assistance for Unemployed Workers Act of 2020 (Continued
- 33 Assistance Act or CAA);
- 34 --the American Rescue Plan Act of 2021 (ARPA), P.L. 117 - 2, enacted March 11, 2021, which
- 35 contained Title IX, Subtitle A, Crisis Support for Unemployed Workers Part 1, Extension of
- 36 CARES Act Unemployment Provisions and Part 2, Extension of FFCRA Unemployment
- 37 Provisions; and
- 38 --Texas Labor Code, §209.025.
- 39

40 FFCRA provided states with emergency funding grants for the administration of their
41 unemployment compensation (UC) programs to assist states with the unprecedented claim
42 volumes associated with COVID-19. Along with these grants, FFCRA also provided for full
43 federal funding for state Extended Benefits (EB).

44
45 The CARES Act provided for new entitlement programs including Federal Pandemic
46 Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation

1 (PEUC), Federally Reimbursed Waiting Week (FRWW), and Pandemic Unemployment
2 Assistance (PUA).

3
4 The CAA amended the CARES Act in multiple ways, including allowing states the option to
5 waive PUA overpayments, providing for the creation of a new Mixed Earner Unemployment
6 Compensation (MEUC) program, and adding new requirements concerning the coordination of
7 programs.

8
9 ARPA provided for an extension of CARES Act and CAA programs.

10 11 New Options and Authority

12
13 In terms of new options and authority included in the CAA, §201(d) of the CAA modified
14 §2102(d) the CARES Act to include an option for states to waive PUA overpayments if certain
15 requirements are met. Previously, each CARES Act program contained a provision for the
16 waiver of overpayments with the exception of PUA. TWC operationalized these requireme nts
17 through administrative rulemaking in §815.12 and §815.183.

18
19 To take advantage of the optional waiver authority, TWC proposes to amend Chapter 815,
20 Subchapter G, to incorporate the authority to waive certain PUA overpayments. As the statutory
21 requirements for PUA waivers in the CAA are the same as those for the CARES Act program
22 waivers, TWC similarly plans to operationalize these waivers through §815.12 and §815.183.

23
24 Section 261 of the CAA added the MEUC program to §2104 of the CARES Act. MEUC
25 operates similarly to another CARES Act program, FPUC, in that it is an additional payment to a
26 claimant who is eligible for at least one dollar of underlying benefit.

27
28 However, there are differences between MEUC and FPUC. To receive MEUC, a claimant must
29 apply for MEUC and be found eligible before MEUC payments may begin. MEUC provides
30 \$100 each week, in addition to FPUC, to certain claimants who meet monetary eligibility
31 requirements. Additionally, MEUC is not payable to claimants receiving PUA.

32
33 TWC has elected to operate the MEUC program and therefore proposes to amend Chapter 815,
34 Subchapter G to include MEUC.

35 36 Coordination of Programs

37
38 Current §815.181 addresses the coordination of CARES Act programs. Section 206 of the CAA
39 modified the program coordination provisions in §2107 of the CARES Act. As a result, TWC
40 proposes to amend §815.181 to reflect these new requirements.

41
42 First, under certain circumstances, a claimant who is collecting PEUC and becomes eligible for a
43 new benefit year of regular UC may be able to continue collecting PEUC instead of filing the
44 new regular UC claim as is normally required under coordination rules. As authorized by the
45 CAA and extended by ARPA, a claimant may be eligible to receive PEUC instead of regular UC
46 if all of the following four criteria are met:

- 1
- 2 --I: The individual has been determined to be entitled to PEUC with respect to a benefit year;
- 3 --II: The benefit year with respect to which the PEUC entitlement had been established (that is,
- 4 the parent claim) has expired after the date of the CAA enactment;
- 5 --III: The individual has remaining entitlement to PEUC with respect to such benefit year; and
- 6 --IV: The individual would qualify for regular UC in a subsequent (new) benefit year and the
- 7 weekly benefit amount for regular UC in the new benefit year would be at least \$25 less than the
- 8 weekly benefit amount payable on the individual's PEUC claim.
- 9

10 The CAA provided states with four options for choosing how to coordinate PEUC with regular
11 UC under the new provision. TWC has determined that State Option One is best suited for
12 operationalization in Texas. State Option One provides for establishing a new benefit year for the
13 claimant but deferring payment of the new regular UC claim until the PEUC claim has been
14 exhausted. TWC chose this option previously when a similar amendment was made to the
15 Emergency Unemployment Compensation provisions of 2008 during the Great Recession.

16
17 Additionally, both the CAA and ARPA provided extensions of the PEUC program. Both
18 extensions contained a requirement that a claimant who was collecting EB at the time the
19 additional PEUC amount became available, stay on EB rather than transition back to PEUC.
20 Instead, the individual must exhaust the existing EB entitlement before reverting to PEUC. This
21 applies to the weeks in which the CAA and ARPA were passed.

22
23 Furthermore, both the CAA and ARPA also provided a state option that a claimant's eligibility
24 for EB be considered to include any week that begins after the individual exhausts all rights to
25 PEUC and that falls during an EB period that began after the date the individual exhausted all
26 rights to PEUC. This applies even if the individual's benefit year has expired, provided the state
27 is in an EB period as of the date the individual exhausts PEUC. As noted below, Texas Labor
28 Code, §209.025 provides TWC with the authority to maximize the receipt of any fully funded
29 federal extended unemployment benefits. TWC is exercising this option and including it in
30 proposed §815.181.

31
32 Finally, TWC has added that in operationalizing these requirements, TWC may further amend
33 the dates in §815.181 in response to federal statute or regulation. This will allow TWC to quickly
34 respond to any subsequent changes to federal statutes or regulations amending the dates relating
35 to the coordination of these programs.

36 37 Additional Provisions

38
39 Texas Labor Code, §209.025 provides that "Notwithstanding any other provision of this
40 subchapter, the Commission by rule may adjust the extended benefit eligibility period as
41 necessary to maximize the receipt of any fully funded federal extended unemployment benefits,
42 if full federal funding for those benefits is available."
43

44 Section 266 of the CAA also provided a state option to disregard the requirement of
45 §203(b)(1)(B) of the Federal-State Extended Unemployment Compensation Act of 1970 (26
46 USC §3304 note) that "no extended benefit period may begin before the fourteenth week after

1 the close of a prior extended benefit period with respect to such State." Currently, this flexibility
2 applies between November 1, 2020, and December 31, 2021.

3
4 To ensure that TWC maximizes the federal funding, TWC proposes the flexibility provided by
5 §266 of the CAA with a retroactive provision and generally applicable language should this
6 flexibility be extended into the future. This rule also accounts for possible future situations where
7 the fourteen-week period is reduced, but not eliminated. This provision is applicable to the
8 Insured Unemployment Rate and the Total Unemployment Rate triggers.

9
10 Additionally, the US Department of Labor has determined that a 15 percent fraud penalty does
11 apply to PUA. Therefore, PUA is removed from the 15 percent fraud penalty exception in
12 §815.185(a). Section 815.185(a) is also amended in case additional guidance or regulations are
13 forthcoming in this area.

14
15 Finally, §815.184 is amended with respect to how CARES Act programs benefits will be offset.
16 TWC will deduct 50 percent per each single deduction of the amount of FPUC, FRWW, MEUC,
17 PEUC, or PUA otherwise payable to the claimant for a benefit overpayment. Section 303(g) of
18 the Social Security Act requires these programs be offset to repay benefit overpayments,
19 however, the US Department of Labor has limited the amount of FPUC, FRWW, MEUC, PEUC,
20 or PUA that can be offset to 50 percent of the benefit payment. Offsetting regarding state
21 programs such as regular state benefits is still governed by state law, including §212.006 and
22 §214.002 of the Act, but with additional flexibility.

23 24 Conformity with Federal Law

25
26 Lastly, TWC adds a federal conformity provision to Chapter 815, Subchapter A. This provision
27 ensures that if federal statutes or regulations change before TWC has a reasonable opportunity to
28 amend its rules, that TWC will continue to operate in conformity with federal law.

29 30 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

31 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
32 therefore, are not discussed in the Explanation of Individual Provisions.)

33 34 **SUBCHAPTER A. GENERAL PROVISIONS**

35 **TWC proposes the following new section to Subchapter A:**

36 37 **§815.4. Conformity with Federal Law**

38 New §815.4 provides that, notwithstanding any other provision of Chapter 815, if the US
39 Secretary of Labor holds that a provision of Chapter 815 does not conform with federal statute or
40 regulation, TWC may administer Chapter 815 to conform with the federal statute or regulation
41 until it has a reasonable opportunity to amend the nonconforming provision.

42 43 **SUBCHAPTER F. EXTENDED BENEFITS**

44 **TWC proposes the following new section to Subchapter F:**

45 46 **§815.175. Federal Waiver to Preserve Access to Extended Benefits**

1 New §815.175 states that pursuant to Texas Unemployment Compensation Act, §209.025, if full
2 federal funding for EB is available and TWC is permitted to reduce or eliminate the number of
3 weeks between the end of an extended benefit period and the beginning of a new extended
4 benefit period required by the Extended Unemployment Compensation Act of 1970,
5 §203(b)(1)(B), TWC shall reduce or eliminate the number of weeks accordingly to maximize the
6 receipt of any fully funded federal EB. Section 815.175 operates retroactively, if applicable.
7

8 **SUBCHAPTER G. CARES ACT PROVISIONS**

9 **TWC proposes the following amendments to Subchapter G:**

10 **§815.180. Definitions**

11 Section 815.180 is amended to add new paragraph (4), which defines MEUC as the Mixed
12 Earner Unemployment Compensation provisions of §2104 of the CARES Act. Current
13 paragraphs (4) and (5) are renumbered as paragraphs (5) and (6).
14
15

16 **§815.181. Coordination of CARES Act**

17 Section 815.181 is amended to add new subsections (c) - (h), which further dictate the
18 coordination of programs, especially how they relate to PEUC, EB, and MEUC.
19

20 New §815.181(c) provides that if a claimant is receiving PEUC, EB, or PUA, and becomes
21 eligible for regular compensation, the claimant must stop collecting PEUC, EB, or PUA and file
22 a new claim for regular compensation, with the following exception: For a claimant whose
23 regular compensation benefit year expires after December 27, 2020, if the claimant is entitled to,
24 and has a remaining entitlement to, PEUC with respect to that benefit year, TWC shall establish
25 a new benefit year, but defer the payment of regular compensation with respect to that new
26 benefit year until exhaustion of all PEUC payable with respect to the prior benefit year if the
27 individual's weekly benefit amount of regular compensation in the new benefit year is at least
28 \$25 less than the individual's weekly benefit amount on the PEUC claim.
29

30 New §815.181(d) provides that a claimant who is receiving EB for the week of unemployment
31 that includes December 27, 2020, or the week ending March 13, 2021, shall not be eligible for
32 PEUC until the individual has exhausted all rights to EB.
33

34 New §815.181(e) states that for weeks of unemployment beginning January 3, 2021, a claimant's
35 eligibility for EB shall be considered to include any week that begins after the individual
36 exhausts all rights to PEUC and that falls during an EB period that began after the date the
37 individual exhausted all rights to PEUC. This applies even if the claimant's benefit year has
38 expired, provided the state is in an EB period as of the date the individual exhausts PEUC.
39

40 New §815.181(f) replaces current §815.181(c). It still provides that FPUC provides for
41 additional compensation to a claimant collecting regular compensation, PEUC, PUA, EB, a
42 Shared Work program under Chapter 215 of the Texas Unemployment Compensation Act, Trade
43 Readjustment Allowances (TRA), and Disaster Unemployment Assistance (DUA), and that
44 claimants will receive FPUC payments concurrently with payments under these programs. The
45 last sentence referencing dates for FPUC has been removed.
46

1 New 815.181(g) provides that MEUC provides for additional compensation to a claimant
2 collecting regular compensation, PEUC, EB, a Shared Work program under Chapter 215 of the
3 Texas Unemployment Compensation Act, TRA, and DUA. It does not provide additional
4 compensation to a claimant collecting PUA. Claimants will receive MEUC payments
5 concurrently with payments under these programs.
6

7 New §815.181(h) provides that in operationalizing these requirements, TWC may further amend
8 the dates in §815.181 in response to federal statute or regulation.
9

10 **§815.182. Appeals**

11 Section 815.182 is amended to add MEUC to §815.182(a) - (c).
12

13 **§815.183. Waiver**

14 Section 815.183 is amended to remove subsection (b). References to PUA and MEUC as being
15 federal extended unemployment compensation programs and therefore subject to §815.12 have
16 been added.
17

18 **§815.184. Overpayments**

19 Section 815.184 is amended to add MEUC to subsection (a) and former subsection (c) as well as
20 to remove the PUA waiver prohibition from subsection (b). Former subsection (c) is re-lettered
21 to subsection (d). Subsections (a) and (b) are amended to remove the last sentence. Proposed
22 subsection (c) clarifies that TWC shall deduct 50 percent per each single deduction of the
23 amount of FPUC, FRWW, MEUC, PEUC, or PUA otherwise payable to the claimant to recover
24 an overpayment.
25

26 **§815.185. Fraud**

27 Section 815.185 is amended to add MEUC to subsections (a) and (b) and remove PUA from
28 subsection (a). Subsection (a) is also amended to note that its provisions stand unless otherwise
29 conflicting with federal statute or regulation.
30

31 **PART III. IMPACT STATEMENTS**

32 Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the
33 rules will be in effect, the following statements will apply:
34

35 There are no additional estimated costs to the state and to local governments expected as a result
36 of enforcing or administering the rules.
37

38 There are no estimated cost reductions to the state and to local governments as a result of
39 enforcing or administering the rules.
40

41 There are no estimated losses or increases in revenue to the state or to local governments as a
42 result of enforcing or administering the rules.
43

44 There are no foreseeable implications relating to costs or revenue of the state or local
45 governments as a result of enforcing or administering the rules.
46

1 There are no anticipated economic costs to individuals required to comply with the rules.

2
3 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
4 communities as a result of enforcing or administering the rules.

5
6 Based on the analyses required by Texas Government Code, §2001.024, TWC has determined
7 that the requirement to repeal or amend a rule, as required by Texas Government Code
8 §2001.0045, does not apply to this rulemaking.

9
10 Takings Impact Assessment

11 Under Texas Government Code, §2007.002(5), "taking" means a governmental action that
12 affects private real property, in whole or in part or temporarily or permanently, in a manner that
13 requires the governmental entity to compensate the private real property owner as provided by
14 the Fifth and Fourteenth Amendments to the United States Constitution or the Texas
15 Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that
16 would otherwise exist in the absence of the governmental action, and is the producing cause of a
17 reduction of at least 25 percent in the market value of the affected private real property,
18 determined by comparing the market value of the property as if the governmental action is not in
19 effect and the market value of the property determined as if the governmental action is in effect.
20 The Commission completed a Takings Impact Analysis for the proposed rulemaking under Texas
21 Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed
22 elsewhere in this preamble, is to ensure conformity and compliance with federal law with respect
23 to extended unemployment compensation programs, including under the CARES Act, CAA, and
24 ARPA, to maximize the state's ability to take advantage of full federal funding, and to
25 incorporate flexibilities and options offered under federal law.

26
27 The proposed rulemaking will not create any additional burden on private real property. The
28 proposed rulemaking will not affect private real property in a manner that would require
29 compensation to private real property owners under the United States Constitution or the Texas
30 Constitution. The proposal also will not affect private real property in a manner that restricts or
31 limits an owner's right to the property that would otherwise exist in the absence of the
32 governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas
33 Government Code, Chapter 2007.

34
35 Government Growth Impact Statement

36 TWC has determined that during the first five years the proposed rules will be in effect:
37 --the rules will not create or eliminate a government program;
38 --implementation of the rules will not require the creation or elimination of employee positions;
39 --implementation of the rules will not require an increase or decrease in future legislative
40 appropriations to TWC;
41 --the rules will not require an increase or decrease in fees paid to TWC;
42 --the rules will not create a new regulation;
43 --the rules will not expand, limit, or eliminate an existing regulation;
44 --the rules will not change the number of individuals subject to the rules; and
45 --the rules will not positively or adversely affect the state's economy.

1 Economic Impact Statement and Regulatory Flexibility Analysis

2 TWC has determined that the proposed rules will not have an adverse economic impact on small
3 businesses or rural communities, as the rules place no requirements on small businesses or rural
4 communities.

5
6 Mariana Vega, Director of Labor Market and Career Information, has determined that there is no
7 significant negative impact upon employment conditions in the state as a result of the rules.

8
9 Clay Cole, Director, Unemployment Insurance Division, and Paul Carmona, Director,
10 Regulatory Integrity Division, have determined that for each year of the first five years the rules
11 are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to
12 ensure that Texas remains eligible to receive full federal extended unemployment benefits during
13 the COVID-19 pandemic and its aftermath.

14
15 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
16 within TWC's legal authority to adopt.

17
18 **PART IV. PUBLIC COMMENT**

19 Comments on the proposed rules may be submitted to *TWCPolicyComments@twc.texas.gov*.

20 Comments must be received no later than 30 days from the date this proposal is published in the
21 *Texas Register*.

22
23 **PART V. STATUTORY AUTHORITY**

24 The rules are proposed under:

25
26 --Texas Labor Code, §209.025, which provides TWC with authority to adopt rules necessary to
27 maximize the receipt of any fully federally funded extended unemployment benefits, if full
28 federal funding of those benefits is available; and

29 --Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend,
30 or repeal such rules as it deems necessary for the effective administration of TWC services and
31 activities.

32
33 The proposed rules affect Texas Labor Code, Title 4.

34

1
2 **CHAPTER 815. UNEMPLOYMENT INSURANCE**
3

4 **SUBCHAPTER A. GENERAL PROVISIONS**
5

6 **§815.4. Conformity with Federal Law.**
7

8 Notwithstanding any other provision of this chapter, if the US Secretary of Labor holds
9 that a provision of this chapter does not conform with federal statute or regulation, the
10 Agency may administer this chapter to conform with the federal statute or regulation until
11 the Commission has a reasonable opportunity to amend the nonconforming provision.
12

13 **SUBCHAPTER F. EXTENDED BENEFITS**
14

15 **§815.175. Federal Waiver to Preserve Access to Extended Benefits.**
16

17 Pursuant to §209.025 of the Act, if full federal funding for Extended Benefits is available
18 and the Agency is permitted to reduce or eliminate the number of weeks between the end
19 of an extended benefit period and the beginning of a new extended benefit period
20 required by §203(b)(1)(B) of the Extended Unemployment Compensation Act of 1970,
21 the Agency shall reduce or eliminate the number of weeks accordingly to maximize the
22 receipt of any fully funded federal Extended Benefits. This section operates retroactively,
23 if applicable.
24

25 **SUBCHAPTER G. CARES ACT PROVISIONS**
26

27 **§815.180. Definitions.**
28

29 The following definitions shall apply to this subchapter:
30

31 (1) CARES Act--refers to the Coronavirus Aid, Relief, and Economic Security
32 Act, Public Law 116 - 136; TITLE II--Assistance for American Workers,
33 Families, and Businesses; Subtitle A--Unemployment Insurance Provisions.
34

35 (2) FPUC--refers to the Federal Pandemic Unemployment Compensation
36 provisions of §2104 of the CARES Act.
37

38 (3) FRWW--refers to the Federally Reimbursed Waiting Week provisions of
39 §2105 of the CARES Act.
40

41 (4) MEUC--refers to the Mixed Earner Unemployment Compensation provisions
42 of §2104 of the CARES Act.
43

44 (5) ~~(4)~~ PEUC--refers to the Pandemic Emergency Unemployment Compensation
45 provisions of §2107 of the CARES Act.
46

1 ~~(6)~~ (5) PUA--refers to the Pandemic Unemployment Assistance provisions of
2 §2102 of the CARES Act.

3
4 **§815.181. Coordination of CARES Act Programs.**

5
6 (a) For a claimant who is eligible for regular compensation, including Unemployment
7 Compensation for Federal Employees (UCFE) and Unemployment Compensation
8 for Ex-servicemembers (UCX), the following order of payment applies:

- 9
10 (1) The claimant must first apply for and receive regular compensation. The
11 amount and duration of these benefits are as defined by the Act;
12
13 (2) if the claimant exhausts regular compensation, the claimant may then be
14 eligible to receive PEUC;
15
16 (3) if the claimant exhausts PEUC and the state has "triggered on" to Extended
17 Benefits (EB) under Chapter 209 of the Act, the claimant may then be eligible
18 to receive EB;
19
20 (4) if the State is not "triggered on" to EB or the claimant exhausts EB, the
21 claimant may then be eligible to receive PUA. If the State "triggers on" to EB
22 during the period in which the claimant is collecting PUA and the claimant has
23 not previously exhausted entitlement to EB for the respective benefit year, then
24 the claimant must stop collecting PUA and file for EB; and
25
26 (5) the claimant meets the qualifications to receive Trade Readjustment
27 Allowances (TRA), such benefits will be payable after regular compensation,
28 PEUC, and EB if "triggered on," but prior to PUA.

29
30 (b) For a claimant who is not eligible for regular compensation, PEUC, EB, or TRA,
31 and who meets the federal requirements, the claimant may be eligible to collect
32 PUA.

33
34 (c) If a claimant is receiving PEUC, EB, or PUA, and becomes eligible for regular
35 compensation, the claimant must stop collecting PEUC, EB, or PUA and file a new
36 claim for regular compensation, with the following exception: For a claimant whose
37 regular compensation benefit year expires after December 27, 2020, if the claimant is
38 entitled to, and has a remaining entitlement to, PEUC with respect to that benefit
39 year, the Agency shall establish a new benefit year, but defer the payment of regular
40 compensation with respect to that new benefit year until exhaustion of all PEUC
41 payable with respect to the prior benefit year if the individual's weekly benefit
42 amount of regular compensation in the new benefit year is at least \$25 less than the
43 individual's weekly benefit amount on the PEUC claim.

1
2 (d) A claimant who is receiving EB for the week of unemployment that includes
3 December 27, 2020, or the week ending March 13, 2021, shall not be eligible for
4 PEUC until the individual has exhausted all rights to EB.

5
6 (e) For weeks of unemployment beginning January 3, 2021, a claimant's eligibility for
7 EB shall be considered to include any week that begins after the individual exhausts
8 all rights to PEUC and that falls during an EB period that began after the date the
9 individual exhausted all rights to PEUC. This applies even if the claimant's benefit
10 year has expired, provided the state is in an EB period as of the date the individual
11 exhausts PEUC.

12
13 (f) ~~(e)~~ FPUC provides for additional compensation to a claimant collecting regular
14 compensation, PEUC, PUA, EB, a Shared Work program under Chapter 215 of the
15 Act, TRA, and Disaster Unemployment Assistance (DUA). Claimants will receive
16 FPUC payments concurrently with payments under these programs. ~~This applies for~~
17 ~~the benefit week ending April 4, 2020 through the benefit week ending July 25, 2020~~
18 ~~unless subsequently amended by federal law.~~

19
20 (g) MEUC provides for additional compensation to a claimant collecting regular
21 compensation, PEUC, EB, a Shared Work program under Chapter 215 of the Act,
22 TRA, and DUA. It does not provide additional compensation to a claimant collecting
23 PUA. Claimants will receive MEUC payments concurrently with payments under
24 these programs.

25
26 (h) In operationalizing these requirements, the Agency may further amend the dates in
27 this section in response to federal statute or regulation.

28
29 **§815.182. Appeals.**

30
31 (a) A claimant may appeal an adverse FPUC, FRWW, MEUC, PEUC, or PUA
32 determination pursuant to the provisions and timeframes of Chapter 212 of the Act
33 and the provisions set out in §815.16 of this chapter (relating to Appeals to Appeal
34 Tribunals from Determinations), §815.17 of this chapter (relating to Appeals to the
35 Commission from Decisions), and §815.18 of this chapter (relating to General Rules
36 for Both Appeal Stages).

37
38 (b) An employer is not a "party of interest," pursuant to §815.15(c) of this chapter
39 (relating to Parties with Appeal Rights), to ~~an~~ FPUC, FRWW, MEUC, PEUC, or
40 PUA determination and therefore does not have appeal rights. An employer may
41 appear at ~~an~~ FPUC, FRWW, MEUC, PEUC, or PUA hearing to offer evidence
42 when appropriate.

43
44 (c) When considering an appeal involving FPUC and/or MEUC, the Appeal Tribunal
45 and the Commission shall look to the merits of the denial of the underlying benefit
46 when determining eligibility for FPUC and/or MEUC payments.

1
2 **§815.183. Waiver.**
3

4 ~~(a)~~ FPUC, ~~the~~ FRWW, MEUC, PEUC, and PUA ~~and PEUC~~ are federal extended
5 unemployment compensation programs and therefore subject to §815.12 of this chapter
6 (relating to Waiver of Repayment and Recovery of Federal Extended Unemployment
7 Compensation Overpayments).

8
9 ~~(b)~~ PUA, as provided by P.L. 116-136 §2102, is related to Disaster Unemployment
10 Assistance programs regulated under Title 20, Part 625, Code of Federal
11 Regulations. Therefore, PUA does not constitute a federal extended unemployment
12 compensation program and the waiver provisions of §815.12 of this chapter do not
13 apply.
14

15 **§815.184. Overpayments.**
16

17 (a) Unless ~~an~~ FPUC, FRWW, MEUC, or PEUC overpayment is otherwise recovered,
18 or ~~is~~ waived, the Agency shall, during the three-year period after the date the
19 claimant received the payment of FPUC, FRWW, MEUC, or PEUC to which the
20 claimant was not entitled, recover the overpayment by deductions from any sums
21 payable to the claimant. ~~No single deduction may exceed 50 percent of the amount~~
22 ~~otherwise payable to the claimant.~~
23

24 (b) Unless a PUA overpayment is otherwise recovered or waived, the Agency shall
25 recover the overpayment by deductions from any sums payable to the claimant. A
26 PUA overpayment ~~may not be waived per §815.183(b) of this chapter and~~ is not
27 subject to the three-year period limitation stated in subsection (a) ~~subsection (a)~~ of this
28 section. ~~No single deduction may exceed 50 percent of the amount otherwise payable~~
29 ~~to the claimant.~~
30

31 (c) The Agency shall deduct 50 percent per each single deduction of the amount of
32 FPUC, FRWW, MEUC, PEUC, or PUA otherwise payable to the claimant to recover
33 an overpayment.
34

35 ~~(ed)~~ If a claimant has an unemployment benefits overpayment with an appropriate
36 agency in another state, and the Agency has a reciprocal arrangement with that other
37 state agency under §211.004 of the Act, the Agency shall deduct 50 percent per each
38 single deduction of the amount of FPUC, FRWW, MEUC, PEUC, or PUA otherwise
39 payable to the claimant.
40

41 **§815.185. Fraud.**
42

43 (a) Unless otherwise conflicting with federal statute or regulation, a ~~A~~ penalty for
44 fraudulently obtaining benefits under §214.003 of the Act shall not apply to
45 fraudulently obtained FPUC, FRWW, MEUC, and PEUC, ~~and PUA~~, benefits
46 forfeited.

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- (b) The Agency and the Commission shall examine the underlying payment or statement which precipitated the fraud determination when examining FPUC [and/or MEUC](#) fraud.
- (c) In determining disqualification for fraud under PUA, the provisions of 20 [CFR](#)~~C.F.R.~~ §625.14(i) shall apply.