

CARES Act Unemployment Assistance, Business Provisions, Health Plan and Labor Provisions

Part of the CARE Act's relief provides additional Pandemic Unemployment Assistance, business provisions for employee retention credits, delayed payment of employer payroll taxes, and various health plan and labor provisions.

How is the CARES Act providing pandemic unemployment assistance?

The CARES Act provides support for unemployment assistance in multiple ways. Five of the key provisions are:

1. Section 2102 - Creates a temporary Pandemic Unemployment Assistance program, which will run through Dec. 31, 2020, providing unemployment benefits to those who do not traditionally qualify for regular unemployment compensation and are unable to work because of the COVID-19 emergency. The Pandemic Unemployment Assistance will cover self-employed workers (gig workers and independent contractors), part-time workers, and those with limited work histories.
2. Section 2104 - Provides an additional \$600 in Federal Pandemic Unemployment Compensation to the weekly unemployment compensation an individual receives from their state. This benefit will be for up to four months and is taxable, but will be disregarded in determining Medicaid or CHIP eligibility.
3. Section 2105 - Provides federal funding to states to pay the cost of the first week of unemployment benefits through Dec. 31, 2020, for states that choose to pay recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive benefits.
4. Section 2106 - Provides states with flexibility to hire temporary staff, rehire former staff, or take other steps to quickly process unemployment claims.
5. Section 2107 - Provides for an additional 13 weeks of federally funded unemployment compensation for individuals who have exhausted their state unemployment benefits.

Section 3603 - Applications for unemployment compensation and assistance with the application process, to the extent practicable, can be accessible in person, by phone, or online.

What are some of the business provisions of the CARES Act?

The CARES Act contains several business provisions. A few ones of particular interest include:

- The CARES Act provides for a refundable payroll tax credit for 50% of wages paid by employers to employees during the COVID-19 emergency. The credit is available to employers, including non-profits, (1) whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings, or (2) gross receipts declined by more than 50% when compared to the same quarter in the prior year. The credit is based on qualified wages paid to the employee and covers the first \$10,000 of compensation, including health benefits, paid to an eligible employee.

- The CARES Act allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax through the end of 2020, with all 2020 deferred amounts due in two equal installments – one at the end of 2021 and the other at the end of 2022. The deferral is not provided to employers that avail themselves of SBA 7(a) loans designated for payroll.
- The CARES Act also relaxes limitations on Net Operating Losses (NOLs). The provision allows an NOL arising in a tax year beginning in 2018, 2019, or 2020 to be carried back five years.

Businesses should consult their tax professionals regarding the correct accounting of these provisions.

What are the health plan provisions?

The CARES Act has several provisions that apply to preventive services and provider and health plans. Some of these provisions include:

- A safe harbor for telehealth services provided under a high-deductible plan (HDHP). Under the safe harbor, an HDHP may provide coverage for all telehealth and other remote care services before the plan's deductible is satisfied without disqualifying a participant from participating in a health savings account.
- The CARES Act requires group health plans and health insurance issuers to cover, without cost-sharing, any qualifying coronavirus preventive services.
- The CARES Act also requires the Health and Human Services Department to issue guidance about sharing patients' protected health information.

Credit unions should discuss the changes for health plans under the CARES Act and Families First Coronavirus Response Act with their health insurance provider.

What are the labor provisions?

The CARES Act includes several labor provisions and clarifications to provisions from the Families First Coronavirus Response Act (FFCRA). Some of these include:

- A limitation stating that an employer is not required to pay more than \$200 per day and \$10,000 in aggregate for each employee for paid leave under FMLA.
- A clarification for the FFCRA that an employer is not required to pay more than \$511 per day and \$5,110 in aggregate for each employee when taking emergency paid sick leave under 1, 2, or 3 of Section 5102(a), or \$200 per day and \$2,000 in aggregate for each employee when taking emergency paid sick leave under 4, 5, or 6 of Section 5102(a).
- Updates eligible employee under EFMLEA to mean an employee who has been employed for at least 30 calendar days and creates rehiring rules to include an employee who was employed for at least 30 calendar days and was laid off by the employer no earlier than March 1, 2020.

Credit unions should consult with HR legal counsel for additional help in understanding the HR implications of the CARES Act.