



DEPARTMENT OF UNEMPLOYMENT ASSISTANCE
UI POLICY & PERFORMANCE
INTEROFFICE MEMORANDUM

Date: September 9, 2021

Rescission(s): UIPP 2020.12

Reference No.: UIPP 2021.06

TO: All DUA Managers and Staff

FROM: Emmy Patronick, Director of Policy and Performance

SUBJECT: The Expiration of Flexibilities for Availability and Suitable Work Issues-Caregiver Responsibilities during the COVID-19 Public Health Emergency

1. PURPOSE:

To provide guidance to DUA staff regarding the end of important flexibilities that applied during the COVID-19 Public Health Emergency, March 8, 2020- September 4, 2021.

This policy memo is intended to notify staff that the temporary flexibilities discussed in UIPP 2020.12 are not in effect after the week ending September 4, 2021. Issues that are effective September 5, 2021, and after should be resolved using the pre-pandemic guidance contained in the Adjudication Handbook issued March 3, 2020.¹ Staff are reminded to continue applying the COVID-19 flexibilities for all weeks between March 8, 2020, and September 4, 2021.

2. ATTACHMENTS:

- UIPP 2020.12

3. BACKGROUND:

At the beginning of the COVID-19 public health emergency, USDOL gave state

¹ [Adjudication Handbook](#)

workforce agencies, including DUA, “significant flexibility in implementing [the able, available, and work search] requirements, as well as in determining the type of work that may be suitable given the individual’s circumstances.” (See U.S. Department of Labor, Unemployment Insurance Program Letter (UIPL) 10-20, dated March 12, 2020.) According to USDOL’s guidance, claimants who were “available for any work for all or a portion of the week claimed” were to be considered to be available under G. L. c. 151A, § 24(b), “provided that any limitation placed by the [claimant] on his or her availability does not constitute a withdrawal from the labor market.” Claimants were allowed to refuse work that otherwise would have been suitable if COVID-19 related caregiving responsibilities for family or household members prevented the acceptance of such work.

Additionally, DOL allowed states to adopt a more expansive interpretation of “good cause” provisions to account for the COVID-19 pandemic. During the period the flexibilities were applicable, a claimant had good cause to refuse suitable work “if the health or safety of the claimant’s child or dependent, an immediate family member, or another household member is put at unreasonable risk by the conditions of the employment. Similarly, a claimant was not to be disqualified under § 25(c) for refusing otherwise suitable work if, due to age, medical condition, or other condition or infirmity, another individual require[d] the claimant’s full-time care and no alternate care [was] available due to COVID-19.² “

These specific, COVID-19 related flexibilities are no longer applicable.

Applicable Standard as of September 5, 2021:

In order to be eligible for benefits, a claimant only needs to be available for suitable work which the claimant has no good cause to refuse. G. L. c. 151A, § 25(c). Unless there is evidence to the contrary, a claimant is presumed to be available for work.

Adjudicators must resolve two questions where the issue is whether a claimant has refused work:

- (1) is the work suitable, and, if so,

² Good cause may include personal reasons such as needing to care for a child or dependent adult. (See Adjudication Handbook, Rev. 3-1-2020, Chapter 4.)

(2) does the claimant have good cause to refuse the work?

Suitable work:

Employment is not considered suitable if it would pose a substantial risk to the **claimant's** health or safety. (DUA Adjudication Handbook, Chapter 5, section G). If the claimant's personal condition or experience would lead to greater risks than others would face, the job may be unsuitable.

Employment is not Suitable If:

- It poses a substantial risk to the claimant's health or safety, or
- the individual's health or safety would be compromised due to an underlying medical or other condition if the claimant accepted the employment, or
- the claimant has a reasonable belief that one of the above factors applies.

The claimant would have "good cause" to refuse suitable work under the circumstances described in the Adjudication Handbook, Chapter 5.

4. ACTION:

Staff should analyze and adjudicate suitable work and any issues under § 24(b) beginning on or after September 5, 2021, using the DUA Adjudication Handbook, issued on March 3, 2020.

Staff should continue to apply COVID-19 flexibilities, as it pertains to suitable work and § 24(b), for all weeks between March 8, 2020, and September 4, 2021.

5. QUESTIONS:

Please email UIPolicyandPerformance@detma.org