



DEPARTMENT OF UNEMPLOYMENT ASSISTANCE
UI POLICY & PERFORMANCE
INTEROFFICE MEMORANDUM

Date: September 9, 2021

Rescission(s): UIPP 2020.14

Reference No.: UIPP 2021.07

TO: All DUA Managers and Staff

FROM: Emmy Patronick, Director of Policy and Performance

SUBJECT: The Expiration of Flexibilities regarding Suitable Work and Total or Partial Unemployment 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 expanded definition of "suitable work" as discussed in UIPP 2020.12 and applied to "total and partial unemployment" issues under §§ 29(a), 29(b), and 1(r) during the COVID-19 pandemic is 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.¹

2. ATTACHMENTS:

- UIPP 2020.12
- UIPP 2020.14

3. BACKGROUND:

¹ [Adjudication Handbook](#)

During the COVID-19 emergency, the United States Department of Labor (USDOL) urged that the states be flexible in adjudicating claims during the pandemic.²

Accordingly, UIPP 2020.12 (issued October 8, 2020) described the newly expanded definition of “suitable work” and its application to able and available issues, and UIPP 2020.14 (issued November 25, 2020) instructed JSRs and review examiners to apply the expanded definition of “suitable work” from UIPP 2020.12 to “total and partial unemployment” issues under §§ 29(a) and 1(r), and, as appropriate, to quit issues under § 25(e).

September 4, 2021, all the CARES Act programs expired, therefore, effective September 5, 2021, the definition of “suitable work” will revert to its regular, pre-pandemic meaning for any issues effective on this date and thereafter.

Suitable Work:

Staff are reminded that suitable work determinations depend on the individual circumstances of each particular case. Staff should refer to Chapter 5 of the Adjudication Handbook (Rev. 3-1-2020) for guidance on suitable work issues.

Total Unemployment:

Under G. L. c. 151A, § 1(r)(2), “an individual shall be deemed to be in total unemployment in any week in which [the individual] performs no wage-earning services whatever, and for which [the individual] receives no remuneration, and in which, though capable of and available for work, [the individual] is unable to obtain any suitable work.”

In other words, if an individual does not perform paid work, the individual must be capable of and available for, some kind of suitable work. If the individual is unable to obtain suitable work, the individual is in total unemployment and eligible for benefits under §§ 29(a) and 1(r), and § 24(b).³

The critical issue in determining whether or not someone is in “total unemployment” is whether or not the individual is receiving any wages or remuneration. A claimant receiving paid sick leave equaling their full wages is not

² See UIPL 10-20 (3/12/2020).

³ As always, these determinations can be week to week. A claimant can be “not in unemployment” for one week, then in total unemployment for the next, and in partial unemployment for the following week, for example.

“in unemployment.” A claimant on an unpaid leave of absence, however, is “in unemployment.” Staff should see Chapter 9 of the Adjudication Handbook (Rev. 3-1-2020) for guidance on total unemployment issues.

Partial Unemployment:

Under G. L. c. 151A, § 1(r)(1), “an individual shall be deemed to be in partial unemployment if in any week of less than full-time weekly schedule of work he has earned or has received aggregate remuneration in an amount which is less than the weekly benefit rate to which he would be entitled if totally unemployed during said week, [subject to the earnings disregard].”

In other words, partial unemployment benefits are available to otherwise eligible claimants who are available for and willing to work a full-time schedule, if the employer fails to furnish full-time work or reduces the claimant’s hours to less than full-time.

Claimants who are searching for full-time work, but accept a less than full-time job, may be eligible for partial unemployment benefits after applying the earnings disregard.

Staff should see Chapter 9 of the Adjudication Handbook (Rev. 3-1-2020) for guidance on partial unemployment and the earnings disregard.

Note: DUA used the flexibility granted by USDOL during the COVID-19 pandemic to temporarily allow claimants to limit their availability to part-time employment for COVID-19 related reasons, in addition to the reasons listed in 430 CMR § 4.45. Beginning the week of September 5, 2021, claimants may *only* limit their availability to part-time for the reasons listed in the regulations.

Staff are reminded to apply the COVID-19 flexibilities to all issues arising from March 8, 2020, to September 4, 2021.

4. ACTION:

Effective September 5, 2021, and thereafter, staff should analyze and adjudicate suitable work and total or partial unemployment issues using the JSR handbook. COVID-19 flexibilities, as it pertains to suitable work and total or partial unemployment, should only be applied if the issue is applicable to the time period from March 8, 2020, through September 4, 2021.

5. QUESTIONS: Please email UIPolicyandPerformance@detma.org