

MASSACHUSETTS TEACHERS ASSOCIATION
Covid-19 Legal Update: Unemployment
April 1, 2020¹

Under existing Massachusetts law, eligible individuals may receive up to 26 weeks unemployment benefits in a benefit year. G.L. c. 151A, § 1 *et seq.* This usually amounts to approximately 50% of a person's average weekly wage, up to a maximum of \$823 per week, with an additional \$25 per week for each dependent child. However, emergency legislation and regulations impact unemployment benefits for those affected by Covid-19.

1 week waiting period waived. Governor Baker signed an act temporarily waiving the one-week waiting period for unemployment benefits for anyone who is separated from their employment as a result of any circumstance relating to Covid-19 or his March 10, 2020 state of emergency declaration. This waiver of the waiting period is effect until 90 days after the end of the state of emergency.

Temporary shutdowns, furloughs, and layoffs. If operations are temporarily shut down in whole or in part, or employees are furloughed or laid off due to Covid-19, then impacted employees should be eligible for unemployment benefits from the Department of Unemployment Assistance ("DUA").² Under emergency DUA regulations, they are considered in "standby" status and benefits are granted automatically for the first 4 weeks. The usual DUA requirements for searching for alternate employment do not apply to those in "standby" status. The following conditions must be met:

- Workers must remain in contact with their employers during the shutdown.
- Workers must be available for any work their employer may have for them that they are able to do.
- An employer may request to extend the period of the covered shutdown to 8 weeks, and workers will remain eligible for the longer period under the same conditions described above.

If necessary, DUA may extend these time periods for workers and employers. These provisions apply to preK-12 as well as higher ed members.

Quarantined workers. Quarantined workers who are not receiving pay may be eligible for unemployment benefits under the same conditions as set forth above for temporary shutdowns, furloughs, and layoffs except that they would return to work when able to do so. No medical documentation should be required. This is also applicable for quarantines due to a

¹ *This update was current as of the date of issuance. The accuracy of the information herein could be impacted by the ever-evolving nature of this state of emergency and federal and state responses to the pandemic.*

² Unfortunately, if a worker is separated from employment for reasons unrelated to Covid-19, then these new provisions do not apply.

reasonable risk of exposure by the worker or when the worker needs to care for a family member who is ill or quarantined. It also applies where, due to the epidemic, a worker needs to care for a child who is home because of the closure of schools and day care centers. If, however, a worker is out but receiving sick leave or other pay, then they are not eligible for unemployment benefits.

Federally Enhanced Benefits. The recently signed federal CARES Act additionally augments unemployment benefits for states that enter into an agreement with the Secretary of Labor.³ From its enactment through July 31, 2020, it adds \$600 to the weekly unemployment compensation determined by the state. This \$600 will be applied to the unemployment compensation of workers whether they are receiving full or partial benefits. It also extends state benefits by 13 weeks.

The CARES Act also provides benefits to those who otherwise are not eligible for state unemployment, such as gig workers, independent contractors, and those who have exhausted their state benefits. This last benefit is available January 27 to December 31, 2020 and applicants must be unemployed in whole or part due to Covid-19 (including if they have Covid-19, someone in household has Covid-19, are quarantined or advised to self-quarantine, unable to reach work or work closed due to pandemic). Workers who are able to work remotely or who are on paid sick leave are not eligible.

Reduced hours. A worker whose hours are reduced may be eligible for partial unemployment benefits. This may include loss of stipend or “extra” positions. The DUA will calculate eligibility for partial benefits based on, among other factors, recent work and earnings history and how many hours of work they continue to have.

Suitable work. The DUA will consider whether a claimant has a condition that prevents the person from performing the essential functions of the job without substantial risk to health or safety. Therefore, even though the employee must be available for work their employer may have for them that they are able to do, such work will not be considered suitable if it endangers the health of the employee or someone in the employee’s household.

Missed deadlines. The DUA will consider whether Covid-19 prevented a claimant from meeting any deadlines in determining if there was “good cause” for lateness.

Unemployment appeals. Appeal hearings will be held telephonically during the state of emergency. Members may be eligible for MTA legal services to appeal denial of unemployment benefits. Contact your local president or MTA field representative.

For up-to-date information on unemployment benefits and to apply on-line, see:
<https://www.mass.gov/resource/information-on-unemployment-and-coronavirus-covid-19>.

³ We assume that Massachusetts will enter into such an agreement and DUA states it is waiting for guidelines on implementing the program from the federal government.