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8 *Attorneys for Plaintiffs-Petitioners*

9
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF**
11 **THE STATE OF NEVADA IN AND FOR THE**
12 **COUNTY OF WASHOE**

13
14 AMETHYST PAYNE and IRIS PODESTA-
MIRELES, on behalf of themselves and all
15 others similarly situated,

16 Plaintiffs-Petitioners,

17 v.

18
19 STATE OF NEVADA ex rel NEVADA
20 DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION
21 (DETR) HEATHER KORBULIC in her
official capacity only as Nevada Director of
22 Employment, Training and Rehabilitation, and
KIMBERLY GAA in her official capacity
23 only as the Administrator for the Employment
24 Security Division (ESD); and DOES 1-100,
25 inclusive,

26 Defendants-Respondents
27
28

Case No.:

**PETITION FOR WRIT OF MANDAMUS
AND/OR CLASS ACTION COMPLAINT
FOR DAMAGES**

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COME NOW Plaintiffs-Petitioners AMETHYST PAYNE and IRIS PODESTA-MIRELES, on behalf of themselves and all others similarly situated, and allege as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over all claims herein against Defendant-Respondent STATE OF NEVADA *ex rel* Nevada Department of Employment, Training and Rehabilitation (hereinafter DETR) - Employment Security Division (ESD) (hereinafter “DETR”) pursuant to NRS 41.031.

2. This Court has jurisdiction over all non-monetary claims such as mandamus against indivial Defendants-Respondents HEATHER KORBULIC in her official capacity only as Nevada Director of Employment, Training and Rehabilitation, and KIMBERLY GAA in her official capacity only as the Administrator for the Employment Security Division pursuant to NRS 41.160 and the federal Civil Rights Act, 28 U.S.C. 1983.

3. Venue is proper in the Second Judicial District because the Plaintiffs-Petitioners each worked in the City of Reno, resided in the County of Washoe, and their claims arose from the acts complained of herein performed within the County of Washoe.

PARTIES

4. Plaintiff-Petitioner AMETHYST PAYNE (also referred to herein as PAYNE) was for over 5 years and is still today working as a self-employed Licensed Massage Therapist (NVMT-7902), lawfully doing business as “Therapeutic Massage by Amethyst” which is licensed by the Secretary of State for Nevada as a sole proprietorship. Massage by Amethyst studio is physically located on Ridge Street, in Reno, NV 89501 and her business office address for all financial matters is on South Meadows Parkway, Reno, 89521. Each year, Plaintiff-Petitioner PAYNE reports her gross revenue to the federal government and pays taxes on the net income as profit. She does not pay herself as a W-2 employee. She is a single mom and sole support for herself and her minor child living in her home.

5. Plaintiff-Petitioner IRIS PODESTA-MIRELES (also referred to herein as MIRELES) was for over 3 years and is still today lawfully working as a self-employed adult interactive cabaret performer licensed by the City of Reno and holding a valid state and city of

1 reno business license. Plaintiff-Petitioner PODESTA-MIRELES is a resident of the City of
2 Reno, works in the City of Reno, and is a single mom and sole support for herself and her five-
3 year-old child living in her home. Plaintiff-Petitioner MIRELES earns additional income each
4 year as a server and bartender employed by others. Each year, Plaintiff-Petitioner MIRELES
5 reports her wages from bartending and serving and her gross revenue from dancing to the federal
6 government and pays taxes according to law. She does not pay herself as a W-2 employee for
7 the income received as a result of her dancing but does have W-2 income as an employee of
8 these other employers.

9 6. Defendant-Respondent DETR is the Department of the State of Nevada
10 responsible for administration and payment of unemployment benefits to all qualified individuals
11 who apply. Defendant-Respondent DETR is certified by the United States Secretary of Labor
12 pursuant to Section 303(a)(1) of the federal Social Security Act, 42 U.S.C. § 503(a)(1) (3) to
13 administer and pay all federally financed unemployment benefits to qualified individuals. In
14 addition, a substantial part of the cost of DETR’s administration of both State and Federal
15 unemployment compensation is paid in whole or in part by the United States.

16 7. Individual Defendant-Respondent KORBULIC is the Nevada Director of
17 Employment, Training and Rehabilitation, and is sued in her official capacity only for non-
18 monetary relief. Together with the other individual Defendants-Respondents herein, Individual
19 Defendant-Respondent KORBULIC is responsible for executing the functions of DETR as it
20 pertains to the timely processing and payment “when due” of Unemployment Compensation to
21 all eligible individuals.

22 8. Individual Defendant-Respondent GAA is the Administrator for the Employment
23 Security Division and is sued in her official capacity only for non-monetary relief. Together
24 with the other individual Defendants-Respondents herein, Individual Defendant-Respondent GAA
25 is responsible for executing the functions of DETR as it pertains to the timely processing and
26 payment “when due” of Unemployment Compensation to all eligible individuals.

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9. Plaintiffs reserve the right to seek to amend this complaint to name other individual(s) in his or her official capacity, should another person assume the position any individual Defendant-Respondent now occupies.

10. The identity of DOES 1-100 is unknown at this time and this petition and complaint will be amended at such time when the identities are known to Plaintiffs-Petitioners. Plaintiffs are informed and believe that each Defendant sued herein as DOE is responsible in some manner for the acts, omissions, or representations alleged herein and any reference to “Defendant” or “Defendants” herein shall mean “Defendants and each of them.”

CLASS ACTION ALLEGATIONS

11. Plaintiffs-Petitioner brings this action on behalf of themselves and all other similarly situated, as follows:

- a. The Class is Defined As: All self-employed individuals, independent contractors and/or the owners of sole proprietorships located within the State of Nevada who do not pay their own wages as a W-2 employee and who have been ordered to cease working as of March 15, 2020 by the State of Nevada, Governor Sisolak by Executive Order, and who would now be eligible to apply for and obtain unemployment compensation pursuant to Unemployment Insurance from the State of Nevada through the Coronavirus Aid, Relief, and Economic Security Act (“CARES” Act) but have been unable to do so because Defendants-Respondents herein did not provide any mechanism or accessible website for them to apply.
- b. The Class is Sufficiently Numerous: Upon information and belief, the class consists of over one thousand individuals throughout the State of Nevada.
- c. Plaintiff’s Claims are Typical to Those of Fellow Class Members: Plaintiffs-Petitioners allege that they like all other class members are entitled under federal law to seek and obtain unemployment compensation through Nevada State DETR, and were prevented from so doing by lack of any mechanism or website to apply to DETR for these federally granted benefits.

- 1 d. Common. Questions of Law and Fact Exist Common questions of law and fact
2 exist and predominate as to Plaintiffs-Petitioners and the Class, including if
3 Defendants owed a duty to provide a mechanism for class members to apply for
4 unemployment compensation and if so, have they discharged that duty
5 appropriately.
- 6 e. Each Plaintiff-Petition Is an Adequate Representative of the Class: Plaintiffs-
7 Petitioners will fairly and adequately represent the interests of the Classes because
8 each Plaintiff-Petition is a member of the Class, each has issues of law and fact in
9 common with all members of the Class, and each does not have any interests
10 antagonistic to Class Members. Plaintiffs-Petitioners and Counsel are aware of
11 their fiduciary responsibilities to Class Members and are determined to discharge
12 those duties diligently and vigorously by seeking the maximum possible recovery
13 for Class Members as a group.
- 14 f. Predominance/Superior Mechanism: Common questions of whether Defendants-
15 Respondents failed to act according to state and federal law predominate over
16 individual questions. A class action is superior to other available means for the
17 fair and efficient adjudication of this controversy. Each Class Member has been
18 damaged and is entitled to recovery by reason of Defendants-Petitioners failure to
19 allow them a reasonable method for applying for, and obtaining, a federally
20 provided unemployment compensation benefit. The prosecution of individual
21 remedies by each Class Member will be cost prohibitive and may lead to
22 inconsistent standards of conduct for Defendants-Respondents and result in the
23 impairment of Class Members' rights and the disposition of their interest through
24 actions to which they were not parties.

25 **STATEMENT OF FACTS**

26 12. Plaintiffs-Petitioners are each lawfully working in the State of Nevada
27 immediately prior to March 15, 2020 as self-employed individuals, sole proprietors, and/or
28 independent contractors who do not pay themselves as W-2 employees.

1 13. Plaintiffs-Petitioners were ordered by Nevada State Governor Sisolak to cease
2 doing business as of March 15, 2020 by Executive Order.

3 14. Prior to March 27, 2020, self-employed individuals, sole proprietors, and/or
4 independent contractors who do not pay themselves as W-2 employees were not eligible to
5 unemployment compensation.

6 15. On March 18, 2020, President Trump signed into law the Families First
7 Coronavirus Response Act (“CARES” Act), which provided additional flexibility for state
8 unemployment insurance agencies and additional administrative funding to respond to the
9 COVID-19 pandemic.

10 16. On Friday, March 27, 2020, President Trump signed into law the CARES Act
11 which, among many other things, provided that all self-employed individuals, sole proprietors,
12 and/or independent contractors who do not pay themselves as W-2 employees would be eligible
13 for up to 13 weeks of federally financed Unemployment Compensation in the amount of \$600
14 per week.

15 17. According to the United States Department of Labor (“DOL”), individuals “To
16 receive unemployment insurance benefits, you need to file a claim with the unemployment
17 insurance program in the state where you worked.”
18 <https://www.dol.gov/coronavirus/unemployment-insurance> (last visited May 11, 2020).

19 18. The federal Social Security Act, 42 U.S.C. § 503(a)(1) (3), provides in pertinent
20 part that a state program for administering unemployment compensation must: “. . . be
21 reasonably calculated to insure full payment of unemployment compensation when due”.

22 19. An individual who believes he or she is eligible for unemployment compensation
23 must first make application to the appropriate state agency. DETR cannot even begin to pay
24 unemployment compensation until an individual claimant applies. It is DETR’s responsibility to
25 provide a reasonable method or mechanism for an eligible individual to apply to unemployment
26 compensation. For all W-2 employees, DETR has provided at least a website application process
27 but has not done so for class members like Plaintiffs-Petitioners.

28

1 20. In an April 2, 2020 article by Subrina Hudson in the Las Vegas Review-Journal,¹
2 Rosa Mendez, a spokeswoman for the Department of Employment, Training and Rehabilitation,
3 or DETR, which oversees the state’s unemployment insurance program acknowledged that the
4 Defendant DETR is required to pay unemployment insurance to self-employed individuals,
5 independent contractors and owners of a sole proprietorship but stated that Defendant DETR was
6 waiting for guidance from the United States Department of Labor.

7 21. On or about April 5, 2020, the U.S. Department of Labor’s Employment and
8 Training Administration (ETA) announced the publication of Unemployment Insurance Program
9 Letter (UIPL) 16-20 and its voluminous appendixes which gave guidance to state officials in
10 providing unemployment benefits: “to those individuals not eligible for regular unemployment
11 compensation or extended benefits under state or Federal law or Pandemic Emergency
12 Unemployment Compensation (PEUC), including those who have exhausted all rights to such
13 benefits. Covered individuals also include self-employed, those seeking part-time employment,
14 individuals lacking sufficient work history, and those who otherwise do not qualify for regular
15 unemployment compensation or extended benefits under state or Federal law or PEUC.”

16 22. On April 10, 2020 the U.S. Department of Labor’s Employment and Training
17 Administration (ETA) announced the publication of Unemployment Insurance Program Letter
18 (UIPL) 17-20, which provides *further* guidance to states as they implement the CARES Act,
19 including the PEUC program.² Under the PEUC program, Defendant DETR must provide up to
20 13 weeks of federally funded benefits to self-employed individuals, sole proprietors and/or
21 independent contractors who earned their income from working in the State of Nevada prior to
22 March 15, 2020, and who were ordered by Nevada State Governor Sisolak to cease doing
23 business as of March 15, 2020. As stated by U.S. Secretary of Labor Eugene Scalia in the
24 official DOL guidance:

25 _____
26 ¹ <https://www.reviewjournal.com/business/nevada-unemployment-benefits-delayed-but-qualified-workers-to-get-back-pay-1997380/> (last visited May 10, 2020).

27 ² The cost of PEUC benefits is 100% federally funded Implementation costs and ongoing
28 administrative costs are also 100% federally funded. *See*,
<https://www.dol.gov/newsroom/releases/eta/eta20200410> (last visited May 10, 2020).

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The CARES Act provides valuable relief to American workers facing unemployment, including unemployed workers who may not otherwise be eligible for regular Unemployment Insurance benefits. . . The guidance issued to states today follows significant guidance and support the Department of Labor has already provided to our state partners, including \$500 million in emergency administrative funding.

23. It has been more than six weeks since the March 15, 2020 Nevada state ordered shut down, and more than four weeks after the United States Department of Labor’s guidance and still Defendants-Respondents have failed to provide any method by which class members, like Plaintiff-

24. Delay in payments of federally mandated unemployment benefits has caused, and will continue to cause, Plaintiffs-Petitioners irreparable harm.

25. Petitioners can even start the process of obtaining their federally mandated unemployment insurance by filing an application with Defendant-Respondent DETR

26. After an application has been filed, it could take anywhere from a few days to a few weeks for Defendant-Respondent DETR actually pays eligible claimants.

27. In addition, because there is no way to apply for these benefits, there is no appeal mechanism within DETR accessible to class members.

28. As of the date of the filing of this complaint, Defendant DETR has yet to establish a procedure for applying for benefits online, and representatives from the Department are simply unavailable by telephone. Attached hereto as Exhibit 1, is a true and correct printout of the DETR website at [https://detr.nv.gov/Page/COVID-19_\(Coronavirus\)_Information_for_Claimants_and_Employers](https://detr.nv.gov/Page/COVID-19_(Coronavirus)_Information_for_Claimants_and_Employers) a copy of the page as of May 11, 2020. The websites states that “Under the “Pandemic Unemployment Assistance (PUA): Unemployment support for otherwise ineligible workers, including self-employed.” The website further states “Status: Vendor selection completed. Start date for PUA intake is expected for mid-May.” As can be seen from the document, the page was updated as of May 2, 2020.

29. In an May 5, 2020 interview with the Nevada Independent reporter Michelle Rindels, the Director of DETR, individual Defendant Heather Korbolic, was asked “It looks like some other states have already gotten their modules up and running for the Pandemic

1 Unemployment Assistance (PUA) program for independent contractors. Others, like Nevada,
2 haven't. Why is that? And what goes into launching that program?" In response. Defendant
3 Korbolic stated "I don't really know the details of why ..."

4 30. It simply does not take six weeks to program a website to accept applications for
5 unemployment, including uploading all relevant scanned documents as files (prior tax returns,
6 licenses, etc.) and to begin payments based upon initial determination of eligibility immediately
7 or to provide a mechanism for speedy appeal of any adverse determination or denial of benefits.

8 31. Other states have already implemented their website Unemployment Benefit
9 application process. For example, . As of May 11, 2020, the State of Texas has a dedicated page
10 website for self-employed individuals to apply for unemployment benefits at
11 <https://www.twc.texas.gov/news/self-employed-texans-and-cares-act> a copy of which is attached
12 hereto as Exhibit 2. The first few lines at the top of the website state:

13 Self-Employed Texans and the CARES Act
14 Ver esta página en español
15 On this page:

16 Self-employed/independent contractors- Do I qualify?
17 How do I apply?

18 What is Pandemic Unemployment Assistance (PUA)?

19 Proof of Income Notice for Self-Employed, Independent Contractors (1099),
20 and Gig Workers

21 I have a full-time job which continue to pay me but I lost my part-time gig, contract
22 or self-employed work. Do I qualify?

23 Are UI benefits taxable?

24 **FIRST CAUSE OF ACTION**

25 Violation of Federal Statute on Behalf of Plaintiffs and All Class Members

26 32. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
27 Complaint as though fully set forth herein.

28 33. Section 303(a)(1) of the federal Social Security Act, 42 U.S.C. § 503(a)(1) (3) (a)
(1) provides that Defendants DETR pay unemployment benefits when due, which now includes
all self-employed individuals, sole proprietors, and independent contractors pursuant to the
Coronavirus Aid, Relief, and Economic Security Act ("CARES" Act) "when due."

34. Under this statute, and in this context, “when due” means at the earliest stage of unemployment where unemployment compensation benefit payments are administratively feasible.

35. By failing for to provide a mechanism by which class members like Plaintiffs-Petitioners can even start the process, Defendants-Respondents have violated the provisions of 42 U.S.C. § 503(a)(1) (3) (a) (1).

36. By the acts complained of herein, Defendants-Respondents have violated a federal statute to the great harm of Plaintiffs-Petitioners and the members of the Class.

37. Wherefore, Plaintiffs-Petitioners demand that Defendants-Respondents be required to immediately, but not later than three days after an Order from this Court so directing, establish a webpage application process, which includes access to an appeal process, for all class members to receive the unemployment insurance that they are entitled to under federal law.

38. Furthermore, as to Defendants-Respondent DETR only, Plaintiffs-Petitioners demand immediate payment to each and every member of the class of all unemployment compensation due pursuant to the federal CARES Act, with interest, attorneys’ fees and costs, as allowed by law.

SECOND CAUSE OF ACTION

Denial of Due Process on Behalf of Plaintiffs and All Class Members

39. Plaintiffs reallege and incorporate by reference all the paragraphs above in the Complaint as though fully set forth herein.

40. Plaintiffs-Petitioners like all other Class Members have a property interest in the receipt of unemployment compensation pursuant to the CARES Act. Plaintiffs-Petitioners have a legitimate claim of entitlement to these benefits.

41. In this case, the payment of unemployment compensation benefits creates in all class members a property interest protected by due process.”

42. Since it is a property right, denial of payment of unemployment compensation by effusing to allow an individual to apply is a violation of due process. As stated in *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 576, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972), “The

1 Fourteenth Amendment’s procedural protection of property is a safeguard of the security of
2 interests that a person has already acquired in specific benefits.”

3 43. By the acts complained of herein, Defendants-Respondents have denied Plaintiffs-
4 Petitioners and all Class Members due process of law. Therefore, they are not and cannot be a
5 “party” to any administrative proceeding.

6 44. Wherefore, Plaintiffs-Petitioners demand that Defendants-Respondents be
7 required to immediately, but not later than three days after an Order from this Court so directing,
8 establish a webpage application process, which includes access to an appeal process, for all class
9 members to receive the unemployment insurance that they are entitled to under federal law.

10 45. Furthermore, Plaintiffs-Petitioners demand from Defendants-Respondent DETR
11 only, immediate payment to each and every member of the class of all unemployment
12 compensation due pursuant to the federal CARES Act, with interest, attorneys’ fees and costs, as
13 allowed by law.

14 **THIRD CAUSE OF ACTION**

15 Mandamus to Compel Performance of Clear Duty Of Office Behalf of Plaintiffs and All
16 Class Members

17 46. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
18 Complaint as though fully set forth herein.

19 47. NRS 34.160 provides that mandamus is available to compel the performance of
20 an act which the law requires as a duty resulting from an office, trust, or station.

21 48. Section 303(a)(1) of the federal Social Security Act, 42 U.S.C. § 503(a)(1) (3) (a)
22 (1) provides that Defendants DETR pay unemployment benefits when due

23 49. The CARES Act now makes unemployment compensation due to all self-
24 employed individuals, sole proprietors, and independent contractors

25 50. By failing to timely initiate a webpage or other system or mechanism for self-
26 employed individuals, sole proprietors, and independent contractors to apply for unemployment
27 compensation, Defendants-Respondents have breached a duty of their office and have failed to
28 perform a duty.

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- 1 2. That Defendants-Respondent DETR immediately pay unemployment
2 compensation due pursuant to the federal Coronavirus Aid, Relief, and Economic
3 Security Act (CARES Act), to each and every member of the class of all self-
4 employed individuals, independent contractors, and/or the owners of sole
5 proprietorships located within the State of Nevada who do not pay their own
6 wages as a W-2 employee and who have been ordered to cease working on March
7 15, 2020 by the State of Nevada, Governor Sisolak ;
- 8 3. That Defendants-Respondents show cause, if any there be, why it should not issue
9 a writ of mandate ordering Defendants herein within three days issuance, to
10 establish a system, scheme or mechanism, preferably a webpage, that allows all
11 self-employed individuals, independent contractors, and owners of sole
12 proprietorships working in Nevada who were forced to cease operations as of the
13 March 15, 2020 as a result of Governor Sisolak’s Executive Order the ability to
14 apply for unemployment compensation as provided by state and federal law.
- 15 4. That Plaintiffs-Petitioners shall be awarded attorneys fees and costs according to
16 law.

17 **AFFIRMATION**

18 *The undersigned does hereby affirm that the preceding document filed in the Second*
19 *Judicial District Court of the State of Nevada, Country of Washoe, does not contain the social*
20 *security number of any person.*

21

22 Dated: May 12, 2020

Respectfully submitted,

THIERMAN BUCK LLP

By: /s/ Mark R. Thierman
Mark R. Thierman
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INDEX OF EXHIBITS

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1.	DETR Nevada Unemployment Insurance Information for Claimants and Employers	8
2.	State of Texas Unemployment Website for Self-Employed Individuals	6

EXHIBIT 1

*DETR Nevada Unemployment Insurance
Information for Claimants and Employers*

EXHIBIT 1



DETR

Nevada Department of Employment, Training and Rehabilitation

(../)

Search

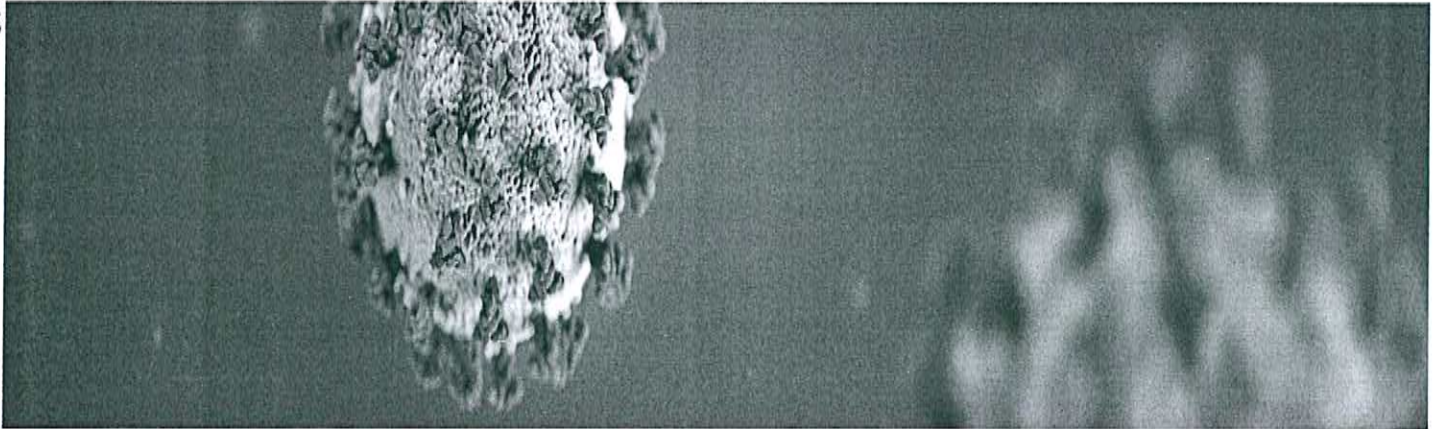


[DETR\(/\)](#) | [State of Nevada\(http://nv.gov\)](http://nv.gov) | [Nevada JobConnect\(https://nevadajobconnect.com\)](https://nevadajobconnect.com)

[About Us\(..../page/About_Us\)](#) | [Contact Us\(..../Page/Contact_Us\)](#)

[Spanish/Espanol](#)

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Nevada Unemployment Insurance Information for Claimants and Employers

COVID-19 (Coronavirus)

[\(en español\)](#)

[\(https://detr.nv.gov/page/Informacion_del_Seguro_de_Desempleo_de_Nevada_para_reclamantes_COVID-19_\(Coronavirus\)\)](https://detr.nv.gov/page/Informacion_del_Seguro_de_Desempleo_de_Nevada_para_reclamantes_COVID-19_(Coronavirus)))

The CARES Act.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act (<https://www.congress.gov/bill/116th-congress/house-bill/748>)) was signed into law by the President on Friday, March 27, 2020. The Division has received guidance from the Department of Labor (DOL) and is now working on the implementation of the various programs.

- **Pandemic Unemployment Assistance (PUA):** Unemployment support for otherwise ineligible workers, including self-employed.

Status: *Vendor selection completed. Start date for PUA intake is expected for mid-May. Last updated 05/02/20*

- **[Pandemic Emergency Unemployment Compensation \(PEUC\)](https://detr.nv.gov/page/COVID-19_PEUC_Pandemic_Emergency_Unemployment_Compensation)** (https://detr.nv.gov/page/COVID-19_PEUC_Pandemic_Emergency_Unemployment_Compensation): 13 additional weeks of benefits for unemployment insurance exhaustees.

Status: *As of May 10, 2020. The Division has implemented the PEUC program. Last updated 05/10/20*

- **[Federal Pandemic Unemployment Compensation \(FPUC\)](https://detr.nv.gov/Page/COVID19_FPUC_Federal_Pandemic_Unemployment_Compensation)** (https://detr.nv.gov/Page/COVID19_FPUC_Federal_Pandemic_Unemployment_Compensation):

An additional \$600 added to each week of unemployment insurance or Pandemic Unemployment Assistance.

Status: *As of April 12, 2020. The Division has started paying the additional \$600 Federal Pandemic Unemployment Compensation (FPUC) payments to eligible claimants for the period starting with the week ending April 4, 2020, and payable thru the week ending July 25, 2020. Last updated 04/15/20*

Administrative Actions

- **Suspend Work Search Waiver:**

Due to the COVID-19 pandemic, DETR's Employment Security Division, as instructed by the Governor, has waived work search requirements beginning 03/15/20 for all claimants. This is due to suitable work not currently available for unemployment insurance claimants as the unprecedented public health crisis has temporarily shut down non-essential businesses across the state. In addition, claimants will not be required to register in-person for employment services at Nevada JobConnect Offices or any other local employment offices within their area until these offices have reopened. Online registration and instructions for Nevada JobConnect can be found on ui.nv.gov (<http://ui.nv.gov/>). Out of state claimants will not be required to register for employment services in their state until further notice. (NRS 612.375, NAC 612.170). *Last updated 05/02/20*

- **Suspend Waiting Period:**

Due to the COVID-19 pandemic, DETR's Employment Security Division, as instructed by the Governor, has waived the 7-day waiting period currently in place. This waiting period is the time between applying for and receiving unemployment insurance benefits. This directive ensures claimants will receive their benefits as quickly as possible. *Last updated 05/02/20*

- **Able & Available Issues:**

An Administrative action has been put into place to resolve or remove most Able & Available issues that have been created since 03/15/20, based on the administrative actions above and the current economic climate. While not all issues will be resolved, those that are being cleared and have no other issues requiring adjudication on the claim will not prevent payment from processing on that claim. *Last updated 05/02/20*

- **Deductible Income Issues:**

Due to the COVID-19 pandemic, an administrative action has been put into place to address the large number of claims with Deductible Income issues. Claims with a Deductible Income issue will not be paid for a four-week period beginning the effective date of the claim. These issues will still be adjudicated and adjusted accordingly; including any FPUC payments that the claimant may be entitled to receive. Payments will begin to go out for the fifth week of the claim. This action only affects deductible income issues and does not apply to separation pay issues such as vacation pay, severance pay, or pension pay. *Last updated 05/02/20*

Information for Claimants

- [How to bypass the Weekly Work Search Activity Page](https://cms.detr.nv.gov/Content/Media/Bypass_Work_Search.pdf) (https://cms.detr.nv.gov/Content/Media/Bypass_Work_Search.pdf)
- [FAQ - Backdate Frequently Asked Questions for Claimants](https://cms.detr.nv.gov/Content/Media/Backdate_Frequently_Asked_Questions_for_Claimants.pdf) (https://cms.detr.nv.gov/Content/Media/Backdate_Frequently_Asked_Questions_for_Claimants.pdf) - Last updated 05/09/20
- [FAQ - Claimants Frequently Asked Questions and COVID-19 \(Coronavirus\)](https://cms.detr.nv.gov/Content/Media/Claimant_FAQ_Covid19_ENG_04-11-20.pdf) (https://cms.detr.nv.gov/Content/Media/Claimant_FAQ_Covid19_ENG_04-11-20.pdf) - Last updated 04/11/20
- [Unemployment Insurance Benefits Tutorials](https://www.youtube.com/playlist?list=PLKU0G2uxOM7AwxvSH-GyeQAgiwxHFzEdF) (https://www.youtube.com/playlist?list=PLKU0G2uxOM7AwxvSH-GyeQAgiwxHFzEdF)
- [Rapid Response Resource Packet for Laid Off Workers](https://detr.nv.gov/Page/Employment_Security_Division_Rapid_Response) (https://detr.nv.gov/Page/Employment_Security_Division_Rapid_Response)
- [Relief for Workers Affected by COVID 19 CARES Act Diagram](https://cms.detr.nv.gov/Content/Media/COVID_19_CARES_ACT_ENG.pdf) (https://cms.detr.nv.gov/Content/Media/COVID_19_CARES_ACT_ENG.pdf) (https://cms.detr.nv.gov/Content/Media/COVID_19_CARES_ACT_ENG.pdf) - Last updated 04/16/20

Information for Employers

- [Employer Frequently Asked Questions and COVID-19 \(Coronavirus\)](https://cms.detr.nv.gov/Content/Media/Employer_FAQ_Covid19_ENG_04-02-20.pdf) (https://cms.detr.nv.gov/Content/Media/Employer_FAQ_Covid19_ENG_04-02-20.pdf) - Last updated 04/02/20
- [Employer Billing Statement for March](https://cms.detr.nv.gov/Content/Media/ESS_Reporting_&_Services_20220.pdf) (https://cms.detr.nv.gov/Content/Media/ESS_Reporting_&_Services_20220.pdf)
- [Employer Notification to Employees of the Availability of Unemployment Compensation](https://cms.detr.nv.gov/Content/Media/Employer_notification_of_UI_to_employees_4-24-20.pdf) (https://cms.detr.nv.gov/Content/Media/Employer_notification_of_UI_to_employees_4-24-20.pdf) - Last updated 04/24/20
- Please note the Nevada April Employer Billing Statements for unemployment insurance contributions initially scheduled for mailing beginning April 13, 2020, will only be available through the online Employer Self Service (ESS). Employers can view online billing statements by logging into their ESS account at ui.nv.gov (<http://ui.nv.gov/ess.html>) (https://cms.detr.nv.gov/Content/Media/ESS_Reporting_&_Services_20220.pdf)
- **Employer Correspondence:** The COVID-19 emergency has created an enormous demand on the unemployment insurance system and Employer notices are being delayed. Due to unforeseen mailing delays, we encourage employers to utilize the [Employer Self Service portal on UInv](http://ui.nv.gov/ess.html) ([https://ui.nv.gov/ess.html](http://ui.nv.gov/ess.html)). The Department is diligently working to resolve these difficulties and will take these limitations under consideration with Adjudication and Appeals timeliness. The Department asks for Employers to make their best effort to provide the required unemployment information to the agency - Last updated 04/29/20
- [Use SIDES for Online Unemployment E-response](https://cms.detr.nv.gov/Content/Media/SIDES_ESS_for_Employers-COVID_04-29-20.pdf) (https://cms.detr.nv.gov/Content/Media/SIDES_ESS_for_Employers-COVID_04-29-20.pdf) - Last updated 04/29/20

Additional Resources

- [Nevada Unemployment Newsletter](https://iqconnect.lmhostediq.com/iqextranet/view_newsletter.aspx?id=100241&c=FSL_NV_GOV) (https://iqconnect.lmhostediq.com/iqextranet/view_newsletter.aspx?id=100241&c=FSL_NV_GOV) - Last updated 04/21/20
- [DETR Press Releases](https://detr.nv.gov/Page/Press_Releases) (https://detr.nv.gov/Page/Press_Releases) - Last updated 04/16/20
- [Nevada Labor Market Information](http://nevadaworkforce.com/) (http://nevadaworkforce.com/) - Last updated 05/02/20
- [Nevada Vocational Rehabilitation](https://vrnevada.org/) (https://vrnevada.org/)
- [EmployNV: For Employers, Job Seekers, and Career Development](https://www.employnv.gov/vosnet/Default.aspx) (https://www.employnv.gov/vosnet/Default.aspx)

- [Weekly Hot Job's Listing - Northern Nevada](https://cms.detr.nv.gov/Content/Media/Northern_Nevada_Hot_Jobs_List_5-11-20.pdf) (https://cms.detr.nv.gov/Content/Media/Northern_Nevada_Hot_Jobs_List_5-11-20.pdf) [Northern Rural Nevada](https://cms.detr.nv.gov/Content/Media/Northern_Rural_Nevada_Hot_Jobs_List_May_5-11-20.pdf) (https://cms.detr.nv.gov/Content/Media/Northern_Rural_Nevada_Hot_Jobs_List_May_5-11-20.pdf) [Southern Nevada](https://cms.detr.nv.gov/Content/Media/Southern_Nevada_Hot_Job_list_5-11-20.pdf) (https://cms.detr.nv.gov/Content/Media/Southern_Nevada_Hot_Job_list_5-11-20.pdf)
- [How to Access Nevada Career Center Services](https://www.employnv.gov/vosnet/ContactUs.aspx?enc=K3xHsfYP7auZKyge9pmxFw==) (https://www.employnv.gov/vosnet/ContactUs.aspx?enc=K3xHsfYP7auZKyge9pmxFw==)

NV Relay 711 or 800-326-6868

TTY 775-687-5353

An equal opportunity employer/program.

Auxiliary aids and services available on request by individuals with disabilities



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NEVADA JobConnect

start here.

(<https://nevadajobconnect.com>)



(<http://owinn.nv.gov/>)



Nevada Governor's Office of Economic Development

— Empowering Success —

(<http://www.diversifynevada.com>)



workforce CONNECTIONS

PEOPLE. PARTNERSHIPS. POSSIBILITIES.

(<https://nvworkforceconnections.org/>)



(<https://www.employnv.gov/vosnet/Default.aspx>)



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(<http://www.nevadaworks.com/>)

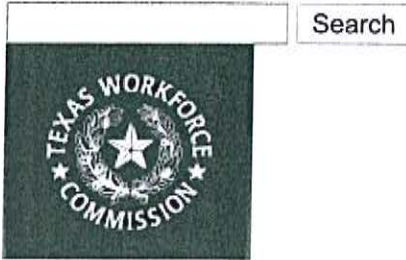
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EXHIBIT 2

*State of Texas Unemployment Website
for Self- Employed Individuals*

EXHIBIT 2

- [About Us](#)
- [Contact Us](#)
- [Find Locations](#)
- [FAQ](#)
- [En Español](#)
- [Tiếng Việt](#)



Job Seekers & Employees

- [Search for Jobs at WorkInTexas.com](#)
- [Apply for Unemployment Benefits & Request Payment](#)
- [Learn About Unemployment Benefits & Appeals](#)
- [View Unemployment News](#)
- [Learn About Vocational Rehabilitation Services](#)
- [Claim Unpaid Wages](#)
- [Plan Your Career](#)
- [Explore Training & Education](#)
- [Job Search Resources](#)
- [Just for Veterans](#)
- [Employee Rights & Laws](#)
- [Employment Support Resources](#)
- [Child Care Program](#)
- [Other resources from Labor Commissioner](#)
- [More for Job Seekers & Employees](#)

Businesses & Employers

- [Register a New Unemployment Tax Account](#)
- [File & Pay Unemployment Taxes](#)
- [Learn About Unemployment Tax](#)
- [Start or Expand a Business In Texas](#)
- [Post Jobs & Find Employees at WorkInTexas.com](#)
- [Respond to a Wage Claim](#)
- [Manage Unemployment Claims & Appeals](#)
- [Recruiting & Hiring Resources](#)
- [Preventing & Managing Layoffs](#)
- [Train Your Workforce](#)
- [Employment Law](#)
- [Labor Market Information](#)
- [For Small Businesses](#)
- [Vocational Rehabilitation Business Relations](#)
- [Texas Internship Challenge](#)
- [Other resources from Employer Commissioner](#)
- [More for Businesses & Employers](#)

Community & Workforce Partners

- [Economic Development](#)
- [Training Providers' Resources](#)
- [Career Schools & Colleges Resources](#)

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- [Vocational Rehabilitation Providers' Resources](#)
- [Workforce Development Boards](#)
- [Civil Rights & Discrimination](#)
- [Programs for People with Disabilities](#)
- [Adult Education](#)
- [More for Community & Workforce Partners](#)

[Students, Parents & Educators](#)

- [Career & Education Planning Resources](#)
- [Adult Education](#)
- [Career Awareness](#)
- [Training Opportunities](#)
- [Child Care Program](#)
- [Vocational Rehabilitation for Youth & Students Page](#)
- [Texas Internship Challenge](#)
- [More for Students, Parents & Educators](#)

[TWC Agency Information](#)

- [Program & Service Overviews](#)
- [Laws, Rules & Policy](#)
- [Reports, Plans & Publications](#)
- [TWC Financial & Grant Information](#)
- [Doing Business with Texas Workforce](#)
- [Councils & Advisory Committees](#)
- [About Texas Workforce Page](#)
- [TWC Contact Information](#)
- [Open Records Requests page](#)
- [Report Fraud to TWC](#)
- [More for TWC Agency Information](#)

Information for COVID-19 FAQ, Employers, Jobseekers, Self-Employed and Child Care

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Self-Employed Texans and the CARES Act

- [Ver esta página en español](#)

On this page:

- [Self-employed/independent contractors- Do I qualify?](#)
- [How do I apply?](#)
- [What is Pandemic Unemployment Assistance \(PUA\)?](#)
- [Proof of Income Notice for Self-Employed, Independent Contractors \(1099\), and Gig Workers](#)
- [I have a full-time job which continue to pay me but I lost my part-time gig, contract or self-employed work. Do I qualify?](#)
- [Are UI benefits taxable?](#)

Self-employed/independent contractor **CHAT WITH US**

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If you are self-employed, a contract worker or previously worked in a position that did not report wages, you may qualify for unemployment and can apply!

If you already applied TWC will determine if you qualify under the new stimulus bill and notify you by mail or electronic correspondence of your eligibility.

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How do I apply?

If you have not filed, please go online to ui.texasworkforce.org and file or if unable to file online then call us at 1-800-939-6631 to start the process. You will be notified you do not qualify for regular unemployment benefits and be enrolled in disaster unemployment benefits or Pandemic Unemployment Assistance.

During the application process, when UBS asks non-traditional workers the reason for their job separation, they should select "reduced hours." If their reduced hours are a result of COVID-19, they should also select "COVID-19" under the disaster impact section. The system will then display questions they need to answer to complete their claim.

After completion, the system will first review the claim for regular unemployment insurance eligibility, which will result in a denial for regular unemployment benefits only. Subsequently, TWC will automatically enroll these applicants in PUA. The initial denial for unemployment insurance may cause confusion but does not affect the PUA eligibility.

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What is Pandemic Unemployment Assistance (PUA)?

This program provides up to 39 weeks of benefits and is available starting with weeks of unemployment beginning on or after January 27, 2020 and ending on or before December 31, 2020. This program covers individuals who are self-employed, seeking part-time employment, or whom otherwise would not qualify for regular UC or EB under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC) under section 2107. Coverage also includes individuals who have exhausted all rights to regular UC or EB under state or federal law, or PEUC. The maximum amount of Texas unemployment insurance is 26 weeks. For people that qualify, the Pandemic Unemployment Assistance can extend benefits to a maximum of 39 weeks through December 31, 2020.

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Proof of Income Notice for Self-Employed, Independent Contractors (1099), and Gig Workers

If you worked for the entire year of 2019 as a self-employed worker, a 1099 independent contractor, or a gig worker, you do NOT need to provide the Texas Workforce Commission (TWC) with your 2019 IRS 1040 Schedule C, F or SE unless your net profit for 2019 exceeded \$20,800. That is the minimum amount needed to increase your Pandemic Unemployment Assistance (PUA) weekly benefit amount (WBA).

You will continue to receive the \$207 minimum Pandemic Unemployment Assistance (PUA) weekly benefit amount (WBA) if your net profit for 2019 was less than \$20,800. Providing your income tax return is optional and will not affect your weekly benefit amount if your net profit

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If you worked as a 1099 independent contractor, do NOT send TWC your 1099 form. Your 1099 form will have no effect on your Pandemic Unemployment Assistance (PUA) weekly benefit amount (WBA).

If your net profit was more than \$20,800 and you submit your IRS forms and schedules, TWC will recalculate your Pandemic Unemployment Assistance (PUA) weekly benefit amount (WBA) and notify you of the change. If your Pandemic Unemployment Assistance (PUA) weekly benefit amount (WBA) increases, TWC will pay the difference retroactively to the date your employment was affected by the COVID-19 pandemic.

If your net profit for tax year 2019 was \$20,800 or more, you can submit your 2019 IRS 1040 Schedule C, F or SE by using our online [UI Submission Upload portal \(English\)](#) or [UI Submission Upload portal \(Spanish\)](#).

If unable to use the online portal you can submit the proof by fax or mail. Due to the heavy volume of mail, processing the proof received by fax or mail will be delayed.

- Fax: (512) 936-3250
- Mail:

Texas Workforce Commission
P.O. Box 149137
Austin, TX 78714-9137

Note: Applicants who submit their tax information may not receive an immediate response. Please do not resubmit unless explicitly asked.

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I have a full-time job which continue to pay me but I lost my part-time gig, contract or self-employed work. Do I qualify?

You may not qualify. Since you are receiving your full -time salary, you are technically employed and thus may make too much to qualify for these programs.

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Are UI benefits taxable?

Unemployment benefits are taxable. Individuals can sign up for withholding and the Texas Workforce Commission will deduct 10% for income tax withholding.

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Last Verified: May 12, 2020

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request to individuals with disabilities.

Deaf, hard-of-hearing or speech-impaired customers may contact TWC through the relay service provider of their choice. [Equal opportunity is the law.](#)

For questions, compliments or complaints, call 800-628-5115

[Texas Workforce Commission Values](#): Community, Respons Excellence and Partnership.

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