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COVID-19: Social Insurance and Other Income-Support Options for Those Unable to Work

Overview

There is uncertainty about how the Coronavirus Disease 2019 (COVID-19) may spread in the United States; what measures federal, state, or local governments may take to mitigate the spread; and the possible effect on individual income security from both. This In Focus provides an overview of existing federal and state government social insurance programs or options that may be implemented relatively quickly to provide financial assistance for those unable to work due to COVID-19 from (1) their own illness; (2) exposure leading to quarantine; (3) illness of a close family member or school closures that may require long-term caregiving; or (4) unemployment resulting from business closures.

Existing Social Insurance Programs

Unemployment Compensation and Disaster Unemployment Assistance

The joint federal-state Unemployment Compensation (UC) program provides income support through UC benefit payments. Although there are broad requirements under federal law regarding UC benefits and financing, the specifics are set out under each state's laws. States administer state-funded UC benefits with U.S. Department of Labor (DOL) oversight, resulting in 53 different UC programs operated in the states, the District of Columbia, Puerto Rico, and the Virgin Islands. To receive UC benefits, claimants must generally have been laid off through no fault of their own; have enough recent earnings (distributed over a specified period) to meet their state's earnings requirements; and be able, available, and actively searching for work. The UC program generally does not provide UC benefits to the self-employed, those who are unable or unavailable to work, or those who do not have a recent earnings history. Individuals who are laid off for reasons related to COVID-19 would be subject to UC laws regarding benefit eligibility in the state where the previous work was performed. Individuals who are unavailable for work due to COVID-19 (e.g., because of a quarantine, or caregiving for sick or quarantined family members) may not meet state requirements regarding being able and available for work.

Disaster Unemployment Assistance (DUA) provides federally funded unemployment benefits to individuals who are unable to work as a result of a federally declared disaster and are otherwise ineligible for regular UC benefits; however, the current statutory definition of "major disaster" (42 U.S.C. § 5122[2]) for the purposes of DUA does not include a disease outbreak. Thus, DUA will not be available under current law in response to COVID-19.

Unlike some federal or state programs, UC and DUA have the ability to rapidly respond and provide immediate income support. Thus, Congress may consider amending or expanding current unemployment benefits for individuals unemployed due to COVID-19. For example, the DUA authority could be a model for responding to public health emergencies. More generally, in response to the 2007-2009 recession, UC benefits were temporarily augmented and extended, with some costs temporarily assumed by the federal government.

Workers' Compensation

Every state has a workers' compensation system that provides wage-replacement and medical benefits to persons who are injured, become ill, or die in the course of employment. There is no federal requirement that states have workers' compensation systems and no federal oversight of state workers' compensation systems. The federal government administers workers' compensation for federal employees under the Federal Employees' Compensation Act (FECA) and for longshore and harbor workers and several other groups of private-sector employees, such as overseas federal contractors, under the Longshore and Harbor Workers' Compensation Act (LHWCA).

While the state programs and the FECA and LHWCA programs share similar features, each program operates under its own laws and regulations. However, nearly all private-sector workers in the United States are covered by some form of workers' compensation. Coverage of self-employed individuals and certain other classes of workers varies by program. The diffuse nature of workers' compensation makes it difficult to provide general information on how any given program would respond to cases of workers contracting COVID-19 in the workplace.

A worker who contracts COVID-19 as a direct result of his or her job, such as a healthcare worker who contracts COVID-19 after treating a patient, would likely be covered by workers' compensation and eligible for benefits. However, a person who contracts COVID-19 through casual contact with a coworker or other person that happens to occur in the workplace may not be covered, as it could be argued that the risk of this person being exposed to COVID-19 was not related to, or peculiar to, the individual's job. Ultimately, such compensation decisions would have to be made by the specific workers' compensation programs and may vary across programs. Workers' compensation would not generally be expected to provide any benefits to a person who is unable to work because of a quarantine order unrelated to his or her employment.

State Temporary Disability Insurance and Medical Leave Insurance

Temporary Disability Insurance (TDI) and Medical Leave Insurance (MLI) are state-mandated insurance programs that provide time-limited cash benefits to qualified workers who generally are unable to work due to *nonoccupational* illnesses or injuries. Workers qualify for benefits by meeting minimum work or earnings requirements and, in most cases, by serving a nonpayable waiting period (usually one week). Benefits replace between 50% and 90% of a worker's pre-disability earnings (up to a maximum amount) and are provided for up to 12-52 weeks. Where available, state TDI/MLI programs cover nearly all private-sector workers and, in some cases, state and local government workers. Federal workers are not covered by TDI/MLI, and self-employed individuals may elect coverage in some states. Currently, TDI/MLI programs operate only in California, Hawaii, New Jersey, New York, Puerto Rico, Rhode Island, and Washington State.

In general, covered workers who meet the state's minimum work or earnings requirements (i.e., insured workers) qualify for TDI/MLI benefits if they become unable to work due to COVID-19 illness and satisfy the waiting period requirement (if any). However, insured workers who are quarantined due to COVID-19 but who are not ill may not qualify for TDI/MLI benefits unless the state specifically permits them to do so. Historically, the federal government has played no direct role in the operation of TDI/MLI programs, which are established and funded via state laws. That said, federal law permits states to withdraw *employee* contributions (if any) from the state's unemployment fund to finance TDI/MLI benefits. Congress could permit states to use *employer* UC contributions to finance benefits; however, this option would likely assist only those states with existing TDI/MLI programs.

Other Income Support Options

Access to Individual Retirement Accounts and Employer-Sponsored Defined Contribution Pensions

The Internal Revenue Code generally imposes a 10% penalty on retirement savings account withdrawals, including those from individual retirement accounts (IRAs) and employer-sponsored defined contribution plans (such as 401[k]s and the federal government's Thrift Savings Plan), that occur before the account owner reaches age 59½. Under current law, certain circumstances that warrant withdrawals are exempted from the penalty, including unreimbursed medical expenses in excess of 7.5% of adjusted gross income (10% if under age 65).

While individuals may withdraw amounts from their IRAs for any reason, individuals with employer-sponsored plans are generally not permitted to withdraw funds except in the case of hardship. Plans may, but are not required to, offer hardship distributions and may choose which situations qualify. Safe harbor regulations automatically deem certain expenses as being due to hardship, or immediate and heavy financial need (26 C.F.R. §1.401[k]-1[d][3][B]), including certain medical expenses and expenses and losses incurred by the employee on account of a federally declared disaster.

Internal Revenue Service guidance could clarify whether COVID-19-related expenses (outside of direct health expenses) would be included as being withdrawn on account of hardship. Hardship distributions are subject to the 10% penalty unless they qualify for an exemption. In addition, some employer-sponsored plans permit employees to take out loans (up to a statutory maximum) from their retirement accounts.

In response to certain past federally declared disasters, Congress has waived the 10% penalty for withdrawals for disaster-related expenses. A provision in Division Q of the Further Consolidated Appropriations Act, 2020 (P.L. 116-94) allowed for penalty-free distributions up to \$100,000 for individuals who lived in an area that had a major federally declared disaster from January 1, 2018, to 60 days after the enactment of the legislation on December 20, 2019. While no public health incident has been declared as a "major disaster" under the Stafford Act, if the President were to declare COVID-19 a major disaster, Congress could extend the recently expired penalty waiver provision, providing penalty relief for COVID-19-related retirement account withdrawals. In 2019, 36% of U.S. households had an IRA and 43% of civilian workers participated in an employer-sponsored defined contribution retirement plan.

Related Resources and References

CRS Report R46219, *Overview of U.S. Domestic Response to Coronavirus Disease 2019 (COVID-19)*.

CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*.

DOL, *Comparison of State Unemployment Laws 2019*, <https://oui.doleta.gov/unemploy/comparison/2010-2019/comparison2019.asp>.

CRS Report RS22022, *Disaster Unemployment Assistance (DUA)*.

CRS Report R45182, *Unemployment and Employment Programs Available to Workers Affected by Disasters*.

CRS Report R44580, *Workers' Compensation: Overview and Issues*.

CRS Insight IN11229, *Stafford Act Assistance for Public Health Incidents*.

CRS Report R40368, *Unemployment Insurance Provisions in the American Recovery and Reinvestment Act of 2009*.

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