

# **Support the Mixed Earner Pandemic Unemployment Assistance Act of 2020**

## **Tell congressional leadership that you want to fix the Pandemic Unemployment Assistance program so that Mixed Income Earners in your state can pay their rent and feed their families**

The Pandemic Unemployment Assistance program was intended to protect independent contractors and other self-employed American workers who lost work through no fault of their own. However, the CARES Act unintentionally excludes such individuals from the PUA program if they make just enough W2 income to qualify for traditional state unemployment benefits, regardless of how small the weekly benefit amount is. These taxpayers are missing out on between \$2,000 and \$28,000 in benefits that workers in traditional work situations are receiving.

Across the country, in every Congressional district, unemployed workers who make a combined income of 1099 (contractor) or self-employment income and W2 (employee) wages are excluded from participating in the PUA program, which means their full income is not considered in calculating a weekly base amount.

Arts organizations, unions, and elected representatives are receiving calls and emails from mixed income earners who feel hopeless and angry by a federal program intended to help them. The additional \$600 pandemic unemployment compensation supplement mitigated some of this crisis, but that amount is ending July 25th.

Entrepreneurs, seasonal workers, gig workers, and local musicians, singers, songwriters, actors, writers, photographers, and other artists who pay federal income taxes have fallen through the cracks and are being disqualified for the PUA program. This proposed amendment to the CARES Act can fix this discrepancy going forward, thereby bringing the PUA program back in line with its noble purpose.

### **Mixed income earners who have never had to stand in line for social programs will soon find themselves in eviction proceedings and bankruptcy court**

This discrepancy has left a large group of Americans workers unable to pay their rent or buy enough food for their families. These are basic necessities. Many Americans work multiple jobs to piece together an income. The hardworking individuals who lack the privilege of having one job are the ones who have fallen through the cracks.

**Illustration 1:** A hypothetical daycare worker (W2 wages) is a nanny on the weekend (1099 wages) and lives with her boyfriend in Oakland, California. After the world shut down, she applied for unemployment and qualified for traditional unemployment benefits. Only her daycare worker wages of \$10,000 were calculated in determining her weekly benefit amount. She is now receiving \$97 in state unemployment benefits when, if her full income of \$20,000 were calculated, she would be receiving \$193 a week. **This discrepancy has cost the childcare**

**provider \$3,744 in unemployment benefits** throughout the term of the CARES Act, which is her share of rent over the course of 39 weeks.

**Illustration 2:** A hypothetical Hawaiian musician earned \$100,000 in 2019 from touring and songwriting, but also received \$1,000 in W2 wages from working as a session musician for an album. Under Hawaii's benefit calculation formula, the state would award him \$24 in weekly state benefits, when, if his total income were aggregated, his benefit would be \$648 a week. **This discrepancy has cost the musician \$24,336 in benefits** and now, as a result, his credit cards are maxed out and he needs to sell his equipment to pay bills.

**Illustration 3:** A hypothetical Tennessee entrepreneur who runs a marketing company earned \$50,000 in 2019 received \$3,000 in W2 residuals from when she acted under union contracts in the early 2000s. Under Tennessee's benefit calculation formula, the state awarded her \$58 in weekly state benefits. If her income was aggregated, her benefit would be \$275 a week. **This discrepancy has cost the entrepreneur \$8,463 in benefits.** She has been standing in line at the food bank for hours to feed her 10-year-old daughter. She panics every time she checks the mail, afraid another residual check will arrive, which she is required to report as income in her weekly benefits report. When this happens, she loses the \$60 and the additional \$600 that week.

**Illustration 4:** A hypothetical performer living in Hell's Kitchen was in the middle of an off-Broadway production when the city shut down all live events. He makes the majority of his income teaching dance and voice classes throughout the city. In 2019, he made \$15,000 in W2 Actors' Equity union wages and \$40,000 as a 1099 contract teacher. The New York state unemployment office only calculated his W2 wages and, as a result, his weekly base benefit amount is \$192. If his total income were calculated, he would be earning \$504 a week in unemployment benefits. **This discrepancy has cost the performer \$12,168.** His retired parents have loaned him some money, but he won't be able to pay his roommates his share of the rent come October.

There is no ability to calculate the number of out-of-work Americans affected by this specific problem; however, we do have a sense of the industries where a worker is more likely to work multiple jobs:

- Entertainment, arts, recreation, and accommodation and food services.
- Educational services, and healthcare and social assistance.
- Retail trade
- Manufacturing
- Construction
- Finance and insurance, and real estate and rental and leasing.

We also have an idea of the demographics of workers who have more than one job. According to the Bureau of Labor Statistics,

- Women are more likely than men to have more than one job.

- 6M White Americans have more than one job.
- 1M Black Americans have more than one job.
- 1M Latino Americans have more than one job.
- 300,000 Asian Americans have more than one job.

While workers from all sorts of industries are suffering from this problem, the mixed income unemployment problem and the general COVID-19 public health crisis disproportionately affects creative workers.

- Forty percent of creators make their income from a combination of W2 employee and 1099 independent contractor or self-employment wages.
- Eighty-eight percent of creators' income has declined, compared to the national average of 43 percent. One third of creators have lost all of their income and 21 percent have lost 90 percent of their income.
- It is unlikely the entertainment and arts industries will recover any time soon. Almost overnight, theater house, concert halls, and art galleries closed and film sets shutdown across the globe. These were the first industries to shutdown and they will be some of the last industries to fully bounce back.
- Live Nation alone has canceled 73,000 scheduled events between April and end of 2020. It was recently announced that Broadway will postpone reopening until 2021. New York film production is set to begin in August, but New York City Mayor's Office of Media and Entertainment advises the industry start small.

Obviously, these cancellations have had an exponential implication for the many workers who have lost most or all of their income.

## **The Mixed Earner Pandemic Unemployment Assistance Act of 2020 Extends a Hand to American Families in Crisis**

The forthcoming Mixed Earner Pandemic Unemployment Assistance Act of 2020 provides critical relief to a large group of American workers who have fallen through the cracks. This legislation might as well be called the Rent Money for Desperate Mixed Earners Act. Participation in the legislative fix is optional for the individual states. We appreciate that each state's unemployment office is managing this crisis differently and some are in a better position to participate.

Unfortunately, it is the unemployment offices across the country who are opposing this critical reform to the PUA program. Formal opposition is not coming from Democrats or Republicans, it is coming from the state agencies tasked with administering these benefits. It is our hope that these agencies come to the table to lend a hand to taxpayers who are suffering and crying out for help.

**As much as we support hardworking government agencies who serve so many, Congress cannot choose bureaucracy over the American people.**

Without question, the PUA program has created an administrative burden on these overworked agencies; however, families should not be the ones paying the price for outdated technology and overlooked essential services. A mother standing in line for baby food at the local food shelf should not be standing there because her unemployment application required additional

manpower to update. It is a sad fact that poverty kills and this pandemic has forced millions of Americans into poverty for the first time. This unemployment crisis is a national emergency and we would not leave families behind in a hurricane.

Under the legislation, individuals who can prove they made \$10,000 or more in self-employment income in 2019 will be able to request a reconsideration of their PUA eligibility and will be able to amend their original application. Unemployment offices will not be required to audit all applications for potential eligibility for the federal fix, they will only need to respond to requests for reconsideration. The individual can then irrevocably switch into the PUA program where both their 1099-self-employment and W2 income will be aggregated for a proper weekly benefit amount calculation.

This legislation does not permit retroactive payments for weeks that an individual already claimed benefits under traditional unemployment benefits, so states will not be required to calculate the discrepancy for each prior week already paid out.

The Pandemic Unemployment Assistance program continues until December 31, 2020. There is still time for Congress to right this unintended wrong in order to prevent self-employed taxpayers from having their lives ruined to no fault of their own.

If you have any questions, please reach out to Sarah Howes, Director of Government Affairs and Public Policy at SAG-AFTRA. Her email is [Sarah.Howes@sagaftra.org](mailto:Sarah.Howes@sagaftra.org)

Sincerely,

Actors' Equity Association

All Creative Writes – New York

American Association of Independent Music

American Federation of Musicians

Americans for the Arts

American Photographic Artists

Artist Rights Alliance

Arts & Business Council of Greater Boston

Arts Council of Greater Baton Rouge

Arts in a Changing America

Arrowmont School of Arts and Crafts – Tennessee

Asian American Arts Alliance

Association of Performing Arts Professionals

Atlanta Contemporary - Georgia

The Authors Guild  
BMI  
C4 Atlanta  
California Lawyers for the Arts  
CERF+ -- the Artists Safety Net  
Chocolate Factory Theater – New York  
Christian Music Trade Association  
Copyright Alliance  
CreativeFuture  
Dad’s Garage Theatre Company – Georgia  
Dance/NYC – New York  
Department for Professional Employees, AFL-CIO  
Dramatists Guild of America  
The Field – New York  
Fourth Arts Block – New York  
Freelancers Union  
Future of Music Coalition  
Graphic Artists Guild  
Gospel Music Associatio  
Hālau Hula Ka Lehua Tuahine – Hawaii  
Independent Music Professionals United  
International Documentary Association  
The Laundromat Project – New York  
Lawyers for the Creative Arts, Chicago  
League of American Orchestras  
Live Nation  
Maryland Volunteer Lawyers for the Arts  
Mississippi Center for Cultural Production  
More Art Inc. – New York

Museum of Contemporary African Diasporan Art (MoCADA)  
Music Artists Coalition  
Music Business Association  
Music Workers Alliance  
National Coalition for Art's Preparedness & Emergency Response  
National Employment Law Project  
National Press Photographers Association  
National Writers Union  
Naturally Occurring Cultural Districts - NY  
New Yorkers for Culture & Arts – New York  
New York Foundation for the Arts  
North American Nature Photography Association  
PA'I Foundation – Hawaii  
Peters Valley School of Craft – New Jersey  
Philadelphia Volunteer Lawyers for the Arts  
Power Haus Creative – Georgia  
Recording Academy  
The Recording Industry Association of America  
Screen Actors Guild – American Federation of Television and Radio Artists  
Songwriters Guild of America  
Songwriters of North America  
Southeast Community Cultural Center – Georgia  
Southern Gospel Music Guild  
Springboard for the Arts – Minnesota Lawyers for the Arts  
St. Louis Volunteer Lawyers and Accountants for the Arts  
True Colors Theatre Company – Georgia  
Universal Music Group  
UrbanGlass – New York  
Washington Area Lawyers for the Arts

Writers Guild of America, East