

**Congress of the United States**  
**Washington, DC 20515**

December 4, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives

Dear Speaker Pelosi and Leader McCarthy:

We urge you to include in the next COVID response package two provisions to help Americans who are currently receiving unemployment benefits and are now being forced to pay back benefits that were overpaid through no fault of their own or paid correctly, but without paperwork that was not initially required by the Department of Labor. In many cases, these overpaid benefits were spent long ago for basic needs, and the still-unemployed workers have no ability to pay them back.

*Retroactive, Unanticipated Recertification Requirements for Current and Former Beneficiaries*

As you know, the CARES Act created Pandemic Unemployment Assistance (PUA) for those who are ineligible for state Unemployment Insurance (UI) benefits but are in need of unemployment benefits because of the pandemic. States were encouraged to set up this brand-new program and begin paying benefits as quickly as possible.

Neither the statutory provisions in the CARES Act nor initial Department of Labor (DOL) guidance required weekly re-certification by individuals receiving benefits. Later, however, states were instructed to require weekly certifications *and* contact all current and former PUA recipients to tell them they must submit weekly certifications dating back to the beginning of the PUA program. If they did not do so all benefits they received would be treated as overpayments that must be repaid. If individuals do not understand and comply, states are required to recover the already-paid benefits.

This new requirement places a heavy administrative burden on states still struggling to help millions of workers get needed benefits on time and in full. It also puts workers at risk of having to repay benefits that they were entitled to just because they are confused by new administrative requests. Obtaining responses for weeks dating back as long as six months will be extremely burdensome as recipients may have moved, become newly employed, or not understand why they must recertify after they had followed all original requirements. A lack of response will result in their correctly-paid benefits being classified as an “overpayment” and a requirement to pay back earned benefits or even termination of ongoing benefits.

To fix this unnecessary hardship, we ask that you include in a COVID relief bill legislative language that would accomplish the following:

*Ensure that individuals who are still otherwise eligible for Pandemic  
Unemployment Assistance do not have their benefits terminated because of*

*inadvertent or state system failure errors in past required weekly benefit recertifications, so long as the state made good faith efforts to implement the program.*

By including such a provision to remove the requirement to retroactively certify weekly COVID-19-related reasons for PUA claims, we can ensure that individuals who are still eligible for PUA are not at risk of having their benefits terminated or be required to pay back benefits they received properly.

#### *PUA Overpayments*

In an effort to provide immediate assistance to workers and families, Washington State implemented PUA three weeks after the CARES Act was signed into law. This action resulted in hundreds of thousands of Washingtonians receiving much needed support that was then used to purchase goods and services from local businesses, helping our economy.

PUA, however, has different eligibility requirements than UI. Over time, if a person receiving PUA surpasses a specific number of work hours, the law requires the person to switch from PUA to regular UI. Many times, when a person's eligibility is being recertified, it is determined that the individual should have switched from PUA to UI earlier, which results in overpayments. Under state law, Washington may waive the requirement for the individual to pay back state UI benefits if it would be against "equity and good conscience." This provision is often used when an individual cannot afford to pay back the amount and, through no fault of their own, received an overpayment.

PUA does not allow for the same reasonable exception. As a result, Washington, as well as other states, are required to claw back money from individuals who were unaware that they were overpaid, were overpaid through no fault of their own, and have no means to repay it. To correct this unfair requirement, we ask that you include legislative language in a COVID relief bill that would accomplish the following:

*Ensure in situations where workers received Pandemic Unemployment Assistance overpayments through no fault of their own and are unable to repay the amount without severe hardship (when repayment would violate "equity and good conscience"), states waive the overpayments. This provision would apply to those past and future overpayments.*

By including this provision, we can ensure Americans struggling to make ends meet during this pandemic are not faced with an unreasonable requirement to pay back funds they properly received and have already spent. We can also avoid diverting state resources that could be better used to ensure timely and accurate payment.

Thank you for your consideration of these two requests and for your commitment to the economic well-being of those most impacted by the COVID-19 pandemic. We look forward to partnering with you to ensure that individuals and families receiving unemployment benefits during this challenging time are not unfairly punished.

Sincerely,



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**Kim Schrier, M.D.**  
Member of Congress



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**Suzan DelBene**  
Member of Congress



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**Adam Smith**  
Member of Congress



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**Rick Larsen**  
Member of Congress



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**Cathy McMorris Rodgers**  
Member of Congress



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**Jaime Herrera Beutler**  
Member of Congress



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**Denny Heck**  
Member of Congress



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**Derek Kilmer**  
Member of Congress



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**Dan Newhouse**  
Member of Congress



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**Pramila Jayapal**  
Member of Congress