



U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1139 LONGWORTH HOUSE OFFICE BUILDING

Washington, DC 20515

June 9, 2025

The Honorable Lori Chavez-DeRemer
Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Secretary Chavez-DeRemer:

We write to request that the Department of Labor (DOL) issue guidance to formally rescind a Biden-era policy that would allow federally-funded supplemental unemployment benefits authorized by the Coronavirus, Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) to be paid retroactively in violation of the law.

During the pandemic, Congress temporarily authorized the Federal Pandemic Unemployment Compensation (FPUC) program. FPUC provided state unemployment insurance (UI) claimants an additional \$600 per week in federal benefits from March 27, 2020 through July 31, 2020, and subsequently \$300 per week from December 27, 2020 through September 6, 2021. **CARES Act UI benefits expired on September 6, 2021.**

On February 12, 2025, as part of a class action lawsuit filed on behalf of Ohio residents, the Franklin County Court of Common Pleas ruled that Governor Mike DeWine and the Ohio Department of Job and Family Services must *reinstate* Ohio's FPUC program and "take all action necessary to obtain Ohio's share of FPUC program benefits from the Department of Labor," approximately \$900 million.¹ The state is appealing the ruling.

During the COVID-19 pandemic, Governor DeWine, and several other Republican-led states, ended their participation in the FPUC program early in June of 2021, three months before the program's expiration.² In many states, FPUC benefits resulted in claimants being paid more than when they were working, disincentivizing return to work efforts and exacerbating labor shortages. To more quickly re-start their economy, at least 26 states ended their participation in FPUC before the program's statutory expiration.³

¹ *State ex rel Candy Bowling, et al. v. Michael DeWine, et al.*, 2021-Ohio-2902; Mike Gauntner, *Court orders Ohio to pursue federal Pandemic Unemployment Funds*, 21 WFMJ NBC, (February 14, 2025), <https://www.wfmj.com/story/52373912/court-orders-ohio-to-pursue-federal-pandemic-unemployment-funds>.

² Gayle Putric, *Ohio Will End Extra Pandemic Unemployment Benefits In June*, ideastream Public Media, (May 13, 2021), <https://www.ideastream.org/government-politics/2021-05-13/ohio-will-end-extra-pandemic-unemployment-benefits-in-june>.

³ Committee for a Responsible Federal Budget, *Over Half of States Ending Federal Unemployment Benefits Early*, (June 23, 2021), <https://www.crfb.org/blogs/over-half-states-ending-federal-unemployment-benefits-early>.

The Ohio lawsuit is the last remnant of a coordinated nationwide effort by activists to sue Republican Governors that ended FPUC early.⁴ Nearly identical lawsuits were filed in Alabama, Arkansas, Florida, Idaho, Indiana, Louisiana, Maryland, Missouri, Oklahoma, South Carolina, Tennessee, Texas and West Virginia.⁵ All of these lawsuits have been dismissed.

Based on court documents filed in association with the Ohio case, on September 3, 2021, Jim Garner, DOL Administrator of the Office of Unemployment Insurance, wrote to state labor officials through an email clarifying DOL's position on states' ability to retroactively re-enroll claimants in pandemic UI programs, including FPUC, either voluntarily or in response to a court order. The email outlined the processes for re-enrollment, including the requirement that states continue to accept applications and issue payments as if there had been no effective termination.⁶ The email appears to disregard the September 6, 2021 statutory expiration date.

There is no legal basis for this guidance or for incurring a nearly \$900 million additional cost to federal taxpayers, years after the expiration of the FPUC program. States' participation in the federally-funded CARES Act UI programs was entirely voluntary and required by law to be administered under formal agreements entered into by each state with DOL. Under these agreements, section XI of the "Agreement Implementing the Relief for Workers Affected by Coronavirus" provides each state the authority to operate the FPUC program, and says, in part: "This Agreement with respect to any of the provisions identified in paragraph XIV, may be terminated by either party on thirty days' written notice." Furthermore, any such expenditure certainly should not rest on an informal email from Biden Administration officials at DOL communicated ad hoc to state workforce agencies.

According to an April 11, 2025 email received in response to a Committee inquiry about the Ohio case, DOL officials indicated the guidance included in Mr. Garner's September 2021 communication is still valid and in effect. This suggests that if Ohio were to lose their appeal of the lawsuit, DOL would be compelled to pay out FPUC benefits as ordered by the court. This raises serious concerns about potential unauthorized expenditure of federal funds.

The prior Administration's wrongful interpretation of Congress's intent in the CARES Act should not compel DOL to spend nearly \$1 billion on pandemic-era unemployment benefits more than three and a half years after FPUC's statutory termination, including possible retroactive payments to fraudsters due to lack of documentation of eligibility. The Government Accountability Office found that between \$100-\$130 billion was lost to fraudsters during the pandemic, with \$1 billion lost in Ohio alone.⁷

⁴ U.S. House Committee on Ways & Means, *GOP Letter Spurs More State Rejections of Federal Unemployment Benefits*, (May 24, 2021), <https://waysandmeans.house.gov/2021/05/24/gop-letter-spurs-more-state-rejections-of-federal-unemployment-benefits/>.

⁵ National Employment Law Project, *States Cutting CARES Act Unemployment Benefit Programs Early*, (August 23, 2021), <https://www.nelp.org/app/uploads/2021/08/States-Canceling-CARES-Act-UI-Benefits-Chart-For-Public-View-August-24-2021.pdf>.

⁶ Jim Garner Email to State Labor Officials, *CARES Act Termination*, (September 3, 2021).

⁷ Pandemic Response Accountability Committee, *Pandemic Unemployment Insurance: How much has been paid to fraudsters?* (April 7, 2025), <https://pandemicoversight.gov/spotlight/unemployment-insurance-fraud>.

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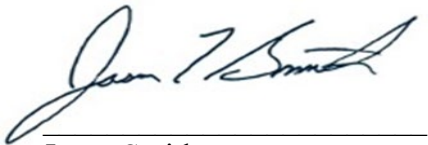
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To prevent such an outcome, we request DOL issue formal guidance to instruct state workforce agencies that DOL is prohibited by law from obligating federal funds for payment of retroactive CARES Act unemployment benefits, including in the FPUC program. As the Committee with primary jurisdiction of the UI program, our expectation is that no additional FPUC benefits will be paid out regardless of the outcome of the pending Ohio lawsuit.

We do not intend such guidance to apply to reimbursement of state administrative costs associated with prosecution and recoupment of fraudulent payments, as authorized by the CARES Act, which has no such similar expiration date.

Thank you for your consideration and please contact Brad Thomas, Professional Staff, at bradley.thomas@mail.house.gov, if you have any questions regarding this request.

Sincerely,



Jason Smith
Chairman
Committee on Ways and Means



Darin LaHood
Chairman, Subcommittee on Work and Welfare
Committee on Ways and Means



Mike Carey (R-OH)
Member of Congress



Max Miller (R-OH)
Member of Congress