Note: This document briefly summarizes provisions in the Coronavirus Aid, Relief, and Economic Security Act ("the CARES Act") that could possibly be of interest to church plans, ministries and plan members. This summary reflects those CARES Act provisions as they are currently understood on March 31, 2020, without any agency guidance. As guidance is issued that may be applicable, we plan to provide information to you on that guidance or to refer you to that guidance, but may not be able to update the summary with that information. This summary is for general information only. It is not a complete analysis and should not be relied upon as legal advice.

Pandemic Unemployment Assistance Program

Quick Summary (read below for details)

- A new program provides unemployment assistance to workers who are not traditionally eligible
- The Act extends coverage to workers who are self-employed
- Unemployment benefits are expanded and enhanced
- Application of the program may vary from state to state

The CARES Act creates a temporary Pandemic Unemployment Assistance Program ("PUAP") to provide payment to those workers not traditionally eligible for unemployment benefits and who are unable to work as a direct result of Coronavirus Disease 2019 ("COVID-19"). The Act also provides enhanced benefits for all workers eligible for unemployment. Unlike the Families First Coronavirus Response Act ("FFCRA"), which only applies to private employers with fewer than 500 employees, the CARES Act applies to all employers regardless of size.

Unemployment benefits are state-based programs and the eligibility criteria, amount of benefits and funding (taxes or premiums) for the coverage depend on the State involved. Generally, unemployment compensation benefits replace about one-third to one-half of wages. A list of the state programs and benefits can be **found here**.

The CARES Act expands and enhances the unemployment benefits available under state programs by:

- expanding the availability of benefits to individuals who are not covered by a state program;
- extending the time period for State benefits to make them available for up to 39 weeks in total, expiring December 31, 2020,
- providing for an additional $600 weekly payment available for up to four months (expiring July 31, 2020), allowing temporarily for a higher rate for low-wage workers, and
- adding a short-term compensation benefit for workers who have not been laid off but whose employment and wages have been reduced due to COVID-19.

Eligibility of Workers for Non-Profits and Religious Organizations

The Act extends coverage to workers who are self-employed, seeking part-time employment (if permitted under state law), do not have sufficient work history, ***or otherwise would not qualify for regular unemployment under state or federal law and*** become unemployed or cannot find work due to COVID19. The program is intended to cover independent contractors too.

Information about the CARES Act from the House Ways and Means Committee Republicans on March 20, 2020 states:

> **"Are self-employed and independent contractors eligible?**
> Yes. Self-employed and independent contractors, like gig workers and Uber drivers, are eligible for Pandemic Unemployment Assistance. *This also covers workers laid off from churches and religious institutions who may not be eligible under the State's program.*" (Emphasis added.)

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In many states, nonprofit organizations, including religious organizations, may elect to participate in the state program and pay the unemployment compensation taxes or to be self-insured for unemployment benefits (in that case, organizations typically make contributions through the state system once an employee is eligible for benefits). In some states, religious organization are exempt from the state program. While the CARES Act provides coverage for unemployed workers of such organizations, how the states will administer the benefits for these workers will depend on each state. To determine how to apply for benefits in a state, consult the **U.S. Department of Labor's website**.

Nonprofits that would normally be self-insured for unemployment benefits (typically making contributions through the state system once an employee is eligible for benefits), would only be responsible for paying 50% of the unemployment benefits their employees collect as opposed to 100%. The CARES Act provides that the federal government will reimburse the state for the remaining 50% of those benefits.

Employees at these organizations will also be eligible for the additional $600 per week benefit under the PUAP. After an employee's first 26 weeks of benefits expire under regular state unemployment laws, an employee of these nonprofits would become eligible for the expanded benefits under the PUAP. This would grant an additional 13 weeks of benefits.

While employees of other nonprofit organizations and religious organizations, which may normally be exempt from state unemployment requirements, are immediately covered by the PUAP under the CARES Act, it is yet to be seen how states will administer those provisions for those unemployed workers or how long it will take to process the claims of such workers.

Eligible Individuals

In addition to the above-mentioned requirements, covered individuals are those who are unemployed, partially unemployed, or unable to work because:

- They have tested positive for COVID-19 or are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
- A member of their household has been diagnosed with COVID-19;
- They are providing care for a family or household member who has been diagnosed with COVID-19;
- A child or other person in the household for whom they have primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of COVID-19, and such school or facility care is required for the individual to work;
- They cannot reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- They cannot reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- They were scheduled to commence employment and do not have a job or are unable to reach the job as a direct result of the COVID-19 public health emergency;
- They have become the breadwinner for a household because the head of the household has died as a direct result of COVID-19;
- They had to quit their job as a direct result of COVID-19;
- Their place of employment is closed as a direct result of the COVID-19 public health emergency; or
- They meet any additional criterial established by the Secretary for unemployment assistance.

The following employees cannot receive unemployment benefits under the CARES Act:

- Employees who are able to telework with pay
- Employees who are receiving Emergency Paid Sick Leave ("EPSL") or Family and Medical Leave Act-Public Health Emergency Leave under the FFCRA
- Employees who are receiving paid leave under an employer plan or state or local law
- Workers who voluntarily quit

Eligibility Period

Covered individuals will receive benefits for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 beginning on or after January 27, 2020 and ending on or before December 31, 2020, for as long as the unemployment, partial unemployment or inability to work caused by COVID19 continues.

Benefit Amount

Under the Act, the weekly benefit amount for most workers is equal to the amount authorized under the state law where the covered individual was employed. **For workers not covered by a state law, or for self-employed individuals, the weekly benefit is calculated under the Disaster Unemployment Assistance ("DUA") program already in place under federal law.** DUA benefits are administered by the state but funded by the federal government. The minimum weekly benefit amount is the average benefit amount of the state.

The Act also enhances unemployment compensation benefits for all eligible individuals — whether eligible under the expansion in the CARES Act or under applicable state law. The enhanced benefits include an additional $600 per week (even if this takes the employee above their pre-unemployment earnings level), the elimination of waiting periods (a measure many states already have taken), and an additional 13 weeks of eligibility for benefits (39 weeks in total). It is anticipated that these benefits will be carried out through agreements between each state and the federal government.

Short-Term Compensation Program

The Act provides funding to support states that develop a "short-time compensation" program for employers that reduce hours in lieu of a layoff (but not for seasonal, temporary or intermittent employees). Many states already have so-called "work share" programs that provide for partial unemployment benefits when employers do hours reductions, or partial furloughs, in lieu of layoffs. Under such a program, employees whose hours have been reduced would receive pro-rated unemployment benefits, and the federal government would fund 100% of the costs employers incurred by retaining employees at reduced hours through December 31, 2020. This is intended to provide an incentive for employers to reduce employee hours in lieu of laying off employees.