

**From:** [Haluska, Jeffery B. - ETA](#)  
**To:** [Williams, Danielle E - DWD](#)  
**Cc:** [Banicki, Amy - DWD](#); [Adams, Dustin R - ETA](#); [Belmonte, Steffanie - ETA](#); [Grochowski, Jean - ETA](#)  
**Subject:** RE: Another PUA Question- SSDI, etc.  
**Date:** Friday, May 29, 2020 3:09:27 PM

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Good Afternoon Danielle,

Where the CARES Act is silent in Section 2102, the legislation points states to DUA regulations. 20 CFR 625.13(a)(6) are the DUA regulations regarding Disqualifying or Deductible Income and states, "the prorated amount of primary benefits under title II of the Social Security Act but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law." Social Security Disability benefits fall under this regulation and would be deducted from regular compensation, ***if payable to the individual under the applicable State law.***

State law dictates the rules for disqualifying and deductible income. Wisconsin's Statute Section 108.04(12)(f) states "an individual is ineligible for benefits under this chapter for each week in the entire month in which a social security disability insurance payment is issued to the individual." We interpret this to mean claimants are ineligible regardless of the amount they receive under Social Security Disability benefits.

Please let us know if you have any additional questions.

## *Jeffery B. Haluska*

Unemployment Insurance Program Specialist  
Kluczynski Federal Building  
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Chicago, IL 60604-1505  
 office

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**From:** Williams, Danielle E - DWD   
**Sent:** Friday, May 29, 2020 2:29 PM  
**To:** Haluska, Jeffery B. - ETA   
**Subject:** FW: Another PUA Question- SSDI, etc.  
**Importance:** High

I understand this response to confirm that SSDI should be deducted from PUA not that claimants are ineligible from receiving PUA. Would you please confirm?

Thank you,

**Danielle Williams**

Assistant Deputy Secretary  
Department of Workforce Development

[Redacted]

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**From:** Banicki, Amy - DWD [Redacted]  
**Sent:** Friday, May 29, 2020 11:36 AM  
**To:** Frostman, Caleb - DWD [Redacted]; Cherry, Robert L - DWD  
[Redacted]; Williams, Danielle E - DWD  
[Redacted]; Reihl, Mark S - DWD [Redacted]  
**Subject:** FW: Another PUA Question- SSDI, etc.

I did receive a response this morning...

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**From:** Haluska, Jeffery B. - ETA [Redacted]  
**Sent:** Friday, May 29, 2020 9:40 AM  
**To:** Banicki, Amy - DWD [Redacted]  
**Cc:** Belmonte, Steffanie - ETA [Redacted]; Grochowski, Jean - ETA  
[Redacted]; Schloesser, Betsy - ETA [Redacted]  
**Subject:** FW: Another PUA Question- SSDI, etc.

Good Morning Amy,

We agree with your interpretation of both Federal and state law. In addition, Dustin and I had discussed this issue earlier this week, and below is the response we have been sending to a couple of claimants from Wisconsin, who had written in to the National Office for assistance. Please let us know if you have any additional questions.

Thanks,  
Jeff

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**From:** Adams, Dustin R - ETA [Redacted]  
**Sent:** Friday, May 29, 2020 8:13 AM  
**To:** Haluska, Jeffery B. - ETA [Redacted]  
**Cc:** Belmonte, Steffanie - ETA [Redacted]; Schloesser, Betsy - ETA  
[Redacted]; Grochowski, Jean - ETA [Redacted]  
**Subject:** RE: Another PUA Question- SSDI, etc.

We've had claimants inquire about this as well. We incorporated citation to the Wisconsin law and to 20 CFR 625.13.

Here is the last response that was sent to a claimant:

Your inquiry regarding the effects of Social Security Disability (SSDI) on

unemployment insurance (UI) benefits in Wisconsin was forwarded to the Employment and Training Administration (ETA) Regional Office in Chicago (Region 5). The ETA is a subdivision of the United States Department of Labor that has limited oversight over state unemployment insurance programs. ETA Region 5 has that limited oversight over several states including Wisconsin.

There is not a straight out prohibition of collecting UI benefits if you are receiving SSDI in Wisconsin; however, there is a reduction in benefits that may result in ineligibility depending on the benefit amounts under the two programs. SSDI is a temporary to permanent income replacement program and therefore many states, including Wisconsin, consider it deductible from UI benefits, as UI is temporary assistance to help replace lost income. As both programs are intended for similar purposes, one a potentially more permanent solution and the other a clearly more temporary solution, there are states that deduct the more permanent SSDI from the more temporary UI to prevent double dipping. In other words, so as to not have individuals receiving assistance under multiple programs that are in place for the same or similar purpose. See Wisconsin Statute Section 108.04(12)(f).

Pandemic Unemployment Assistance (PUA) was recently created by the CARES Act and it defers to the guidelines for Disaster Unemployment Assistance (DUA) on what income and/or other benefits are deductible. The portion of the DUA law referring to income restrictions and deductions at 20 CFR 625.13(a)(6) indicates “the prorated amount of primary benefits under title II of the Social Security Act, but only to the extent that such benefits would be deducted from regular compensation if payable to the individual under the applicable State law.” So DUA and PUA defer to the State’s regular UI law as to whether SSDI is deductible. As previously discussed SSDI is deductible income from regular UI in Wisconsin and therefore it is deductible income from the DUA and PUA programs as well.

Again, it depends on the amount of the SSDI and the amount of the UI, DUA or PUA benefit involved as to whether the deductible SSDI zeros out the UI, DUA, or PUA benefit and makes the claimant ineligible for the week. The amount of SSDI is generally based on the percentage the individual is disabled, which also affects how much the person can earn from work. The UI, DUA or PUA amount is generally determined by a percentage of the earnings during the benefit year and there is a minimum and maximum weekly benefit amount. If the amount of the SSDI reduces the amount of the UI, DUA or PUA benefit to the point the person is ineligible then they are ineligible under the applicable program. In your case, it appears that the amount of your deductible SSDI benefit payment as it computes to a per week basis zeros out the weekly amount of regular UI and/or PUA benefit you would otherwise be eligible for and that unfortunately makes you ineligible for benefits under either program. Neither the Wisconsin Department of Workforce Development nor ETA have the authority to expand the coverage of UI or PUA beyond the applicable State and Federal Laws.

We hope this answers your questions regarding this matter.

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**From:** Haluska, Jeffery B. - ETA <[redacted]>  
**Sent:** Friday, May 29, 2020 7:33 AM  
**To:** Adams, Dustin R - ETA <[redacted]>  
**Cc:** Belmonte, Steffanie - ETA <[redacted]> Schloesser, Betsy - ETA <[redacted]>  
[redacted] Grochowski, Jean - ETA <[redacted]>  
**Subject:** FW: Another PUA Question- SSDI, etc.

I know we discussed this the other day because Frostman contacted Christine and she asked you. We discussed it Tuesday morning, but I didn't see the final outcome. Amy's breakdown below is thorough and on point in my opinion and matches with what you and I discussed on Tuesday. Do you have any additional insight (or anyone else) before I respond?

Thanks,  
Jeff

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**From:** Banicki, Amy - DWD <[redacted]>  
**Sent:** Thursday, May 28, 2020 4:24 PM  
**To:** Haluska, Jeffery B. - ETA <[redacted]> Grochowski, Jean - ETA <[redacted]>  
[redacted] Schloesser, Betsy - ETA <[redacted]>  
**Subject:** Another PUA Question- SSDI, etc.

Hi Jeff, Jean, and Betsey,

We are respectfully seeking an opinion on the following and would really appreciate a quick response as we are adjudicating PUA claims and are receiving many questions.

We have been interpreting PUA to disqualify claimants who are receiving SSDI benefits from receiving UI in any given week because under state law, individuals receiving SSDI are ineligible for regular UI. Wis. Stat. § 108.04(12). Upon further review and inquiries by our federal congressional delegation, DWD Secretary Caleb Frostman is concerned with this interpretation and we are therefore asking for USDOL guidance.

Under Wis. Stat. § 108.04(12), the statutory provisions address prevention of duplicate payments including receipt of UI benefits in another state, worker's compensation benefits or SSDI benefits.

Wisconsin law (Wis. Stat. § 108.04(12)(f)) provides that claimants for regular state UI are "ineligible for benefits under this chapter for each week in the entire month in which a social security disability insurance payment is issued to the individual." (SSDI is paid monthly; UI is paid weekly.). Wis. Stat. § 108.04(12)(f)1m. sets forth the intent of this statutory provision: "[t]he intent of the legislature in enacting this paragraph is to prevent the payment of duplicative government benefits for the replacement of lost earnings or income, regardless of an individual's ability to work."

Wisconsin law also provides that claimants for regular UI are ineligible if they are receiving certain types of worker's compensation benefits (temporary total disability or permanent total disability) for a whole week. (Wis. Stat. § 108.04(12)(e)).

Wisconsin law further provides that claimants are ineligible if they earn more than \$500 in wages weekly or work more than 32 hours weekly. Wis. Stat. §§ 108.05(3)(c) and 108.05(3)(dm). If a claimant earns less than \$500 weekly, they may be eligible for a partial UI benefit.

The CARES Act says, with respect to PUA, that "Except as otherwise provided in this section or to the extent there is a conflict between this section and section 625 of title 20, Code of Federal Regulations, such section 625 shall apply to this section as if— (1) the term "COVID-19 public health emergency" were substituted for the term "major disaster" each place it appears in such section 625; and (2) the term "pandemic" were substituted for the term "disaster" each place it appears in such section 625."

The DUA regulations state:

"The terms and conditions of the State law of the applicable State for an individual, which apply to claims for, and the payment of regular compensation, shall apply to applications for, and the payment of, DUA to each such individual, only as specifically set forth in the provisions of this part." 20 CFR § 625.11.

Attachment 1 to UIPL 16-20 says "The terms and conditions of the state law which apply to claims for regular compensation and extended benefits and the payment thereof shall apply to claims for PUA and the payment thereof except as provided in these operating instructions and any additional guidance issued regarding the PUA program."

and

"The amount of DUA payable to an individual for a week of unemployment, as computed pursuant to § 625.6, shall be reduced by the amount of any of the following that an individual has received for the week or would receive for the week if the individual filed a claim or application therefor and took all procedural steps necessary under the appropriate law, contract, or policy to receive such payment: The prorated amount of primary benefits under title II of the Social Security Act, but only to the extent that such benefits would be deducted [sic] from regular compensation if payable to the individual under the applicable State law." 20 CFR § 625.13(a)(6).

We had been reading the above laws together to mean that a person who is receiving SSDI, worker's compensation permanent total disability or temporary total disability for a whole week, or \$500 or more weekly in wages is ineligible for UI and, therefore, also ineligible for PUA. However, Secretary Frostman believes the correct interpretation could be that because those individuals are ineligible for regular UI, they may be eligible for PUA (assuming they are available for work but for one of the COVID-19 related reasons).

We are asking for confirmation whether an individual who is receiving SSDI, worker's compensation permanent total disability or temporary total disability for a whole week, or \$500 or more weekly in wages may be eligible for PUA.

Your soonest response will be most appreciated.