

# 52 N.J.R. 1616(a)

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## RULE ADOPTIONS

### Reporter

52 N.J.R. 1616(a)

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## Agency

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LABOR AND WORKFORCE DEVELOPMENT > DIVISION OF UNEMPLOYMENT INSURANCE

## Administrative Code Citation

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**Adopted Concurrent New Rule: N.J.A.C. 12:17-12.8**

## Text

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### **Pandemic Unemployment Assistance (PUA) for Self-Employed Individuals**

Proposed: May 4, 2020, at 52 N.J.R. 1023(a).

Adopted: July 15, 2020, by Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Filed: July 15, 2020, as R.2020 d.076, **without change**.

Authority: N.J.S.A. 43:21-1 et seq.; specifically, N.J.S.A. 43:21-7.g.

Effective Date: August 17, 2020.

Expiration Date: November 22, 2022.

**Summary** of Public Comment and Agency Response:

**No comments were received.**

### **Federal Standards Statement**

The adopted concurrent new rule does not exceed standards or requirements imposed by Federal law. Specifically, the adopted concurrent new rule is not inconsistent with either the Federal Unemployment Tax Act, 26

U.S.C. §§ 3301 et seq., or the Federal CARES Act, S3548, 116th Congress (2019-2020). Consequently, no Federal standards analysis is required.

**Full text** of the adopted concurrent new rule follows:

## SUBCHAPTER 12. CLAIMS ADJUDICATION--OTHER THAN BENEFIT ELIGIBILITY ISSUES

### 12:17-12.8 Pandemic Unemployment Assistance (PUA) for self-employed individuals

(a) A "covered individual" under the Pandemic Unemployment Assistance (PUA) program established by the Federal government through the Coronavirus Aid, Relief and Economic Security Act (CARES Act), S3548, 116th Congress (2019-2020), Section 2102, includes, but is not limited to, one who is not eligible for regular compensation or extended benefits under State or Federal law or Pandemic Emergency Unemployment Compensation (PEUC) under Section 2107 of the CARES Act, including an individual who has exhausted all rights to regular unemployment or extended benefits under State or Federal law or PEUC under Section 2107 of the CARES Act; and provides self-certification that the individual:

1. Is self-employed;
2. Is seeking part-time employment;
3. Does not have sufficient work history, or otherwise would not qualify for regular unemployment or extended benefits under State or Federal law or PEUC under Section 2107 of the CARES Act; and
4. Is otherwise able to work and available for work within the meaning of N.J.S.A. 43:21-1 et seq., except the individual is unemployed, partially unemployed, or unable or unavailable to work because:
  - i. The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
  - ii. A member of the individual's household has been diagnosed with COVID-19;
  - iii. The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
  - iv. A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
  - v. The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
  - vi. The individual is unable to 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;
  - vii. The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
  - viii. The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
  - ix. The individual has to quit his or her job as a direct result of COVID-19;
  - x. The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
  - xi. The individual meets any additional criteria established by the Secretary of the United States Department of Labor for unemployment assistance under Section 2102 of the CARES Act.

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(b) Acceptance by the Department under (a) above of an individual's self-certification as to his or her status as self-employed, and any determination by the Department based on that self-certification that an individual is not eligible for regular compensation or extended benefits for the sole purpose of, and as a pre-requisite to, establishing that the individual is eligible for PUA, shall not constitute a determination of the status of that individual as an independent contractor under N.J.S.A. 43:21-19(i)(6)(A), (B), and (C) (the "ABC test"), nor shall it foreclose the Department or any tribunal or court of competent jurisdiction from determining at any time with regard to such services that those services constitute "employment" as that term is defined at N.J.S.A. 43:21-19(i) or elsewhere.

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