

# Some Courts Say States Can't Halt Enhanced Federal Jobless Benefits

By Lisa Nagele-Piazza, J.D., SHRM-SCP

July 16, 2021

**E**nanced unemployment benefits under a federal COVID-19 relief program are set to expire in September. About half the states have opted to end the program early, but courts have ordered some governors to continue providing the benefits in light of ongoing litigation.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and subsequent federal stimulus bills expanded eligibility for unemployment benefits, lengthened the period of time during which those benefits could be received and increased the amount of the weekly payments. Under the current program, eligible unemployed workers may receive an extra \$300 a week through Sept. 6.

Citing a shortage of workers to fill job vacancies, officials in some states have opted out of the program early in an effort to encourage workforce participation. "While these federal programs provided important temporary relief, vaccines and jobs are now in good supply," said Maryland Gov. Larry Hogan. "And we have a critical problem where businesses across our state are trying to hire more people, but many are facing severe worker shortages."

Judges in Indiana and Maryland, however, recently ordered their respective states to continue providing federal supplements while litigation ensues. A state judge in Baltimore said the harm to displaced workers from halting the program outweighs the economic impact on the state.

We've gathered articles on the news from *SHRM Online* and other trusted media outlets.

## Maryland Won't Appeal Ruling

Two organizations representing unemployed workers in Maryland filed lawsuits challenging Hogan's decision to end the supplemental unemployment benefit program early. Judge Lawrence Fletcher-Hill granted a preliminary injunction in favor of the workers, finding that they showed a likelihood that they would prevail on their claim that the state is obligated to accept the federal support.

Hogan argued that the enhanced benefits encourage people not to return to work.

A spokesman said Hogan and the state secretary of labor "fundamentally disagree" with the judge's ruling, but they don't plan to appeal. "While we firmly believe the law is on our side, actual adjudication of the case would extend beyond the end of the federal programs, forgoing the possibility of pursuing the matter further," said spokesman Michael Ricci in a statement.

(*The Washington Post* ([https://www.washingtonpost.com/local/md-politics/maryland-unemployment-judge-hogan-injunction-/2021/07/13/81f7ed5a-e3db-11eb-8aa5-5662858b696e\\_story.html](https://www.washingtonpost.com/local/md-politics/maryland-unemployment-judge-hogan-injunction-/2021/07/13/81f7ed5a-e3db-11eb-8aa5-5662858b696e_story.html)))

### Indiana Loses Appeal

Gov. Eric Holcomb challenged a temporary order directing Indiana to continue providing enhanced federal benefits. But a state appeals court upheld a superior court judge's order finding that Indiana's decision to exit the program early likely violates state law. Unemployment benefits are "instrumental in allowing Hoosiers to regain financial stability at an individual level while the state continues to face challenges presented by the COVID-19 pandemic during its return to normalcy," wrote Marion Superior Court Judge John Hanley.

(Associated Press (<https://apnews.com/article/business-health-courts-indiana-coronavirus-pandemic-a90662bb9ea8b290f427cdeca62b5ddf>))

### More Lawsuits

In Texas, two Facebook groups filed a lawsuit representing their 30,000 members, claiming that Gov. Greg Abbott exceeded his authority by curbing federal benefits. A judge dismissed the claim, holding that the groups did not have a legal right to sue.

Additionally, a legal challenge over halted benefits in Ohio is pending. The lawsuit claims that the decision "represents a willful and blatant violation of Ohio law," in addition to "jeopardizing the personal and financial well-being of Ohioans who are struggling to recover from the pandemic."

Gov. Mike DeWine says the benefits are no longer necessary. "When this program was put in place, it was a lifeline for many Americans at a time when the only weapon we had in fighting the virus was to slow its spread through social distancing, masking and sanitization," he said. "That is no longer the case."

(*Texarkana Gazette* (<https://www.texarkanagazette.com/news/texas/story/2021/jun/26/texans-sue-stop-state-exiting-federal-program-paying-extra-300-unemployment/876683/>) and (*Forbes* (<https://www.forbes.com/sites/shaharziv/2021/07/06/ohio-lawsuit-seeks-to-restore-300-weekly-unemployment-benefit/?sh=30e07c263334>))

### Hiring Challenges for Employers

Nationwide, many employers say they can't hire because expanded federal and state unemployment insurance payments have caused potential job candidates to drop out of the labor force. Meanwhile, employers' unemployment insurance taxes are also going up. "It does seem like a double hit," said Joe Kane, executive vice president at Total Management Solutions Inc., which offers severance management services.

(*SHRM Online* ([www.shrm.org/resourcesandtools/hr-topics/compensation/pages/montana-replaces-higher-unemployment-benefits-with-back-to-work-bonus.aspx?\\_ga=2.200255470.1584238845.1621858464-1102745045.1615925853&\\_gac=1.254670330.1621970506.Cj0KCQjwwLKFBhDPARIsAPzPi-KP4PIBWsODb0j3Fqlunc0Dv3T3NzDq6MFrQLH9tMhciraJaNu-vL8aAkMwEALw\\_wcB](http://www.shrm.org/resourcesandtools/hr-topics/compensation/pages/montana-replaces-higher-unemployment-benefits-with-back-to-work-bonus.aspx?_ga=2.200255470.1584238845.1621858464-1102745045.1615925853&_gac=1.254670330.1621970506.Cj0KCQjwwLKFBhDPARIsAPzPi-KP4PIBWsODb0j3Fqlunc0Dv3T3NzDq6MFrQLH9tMhciraJaNu-vL8aAkMwEALw_wcB)))

**Where Are the Applicants?**

A contentious debate is raging over whether the weekly \$300 federal unemployment benefit is causing the reported labor shortages. There are also new programs that cover people who are self-employed, gig workers, and others who do not qualify for regular state unemployment insurance programs, as well as waived eligibility requirements to receive unemployment benefits.

Michael Farren, a research fellow at the Mercatus Center at George Mason University in Arlington, Va., believes that the increased generosity of federal unemployment benefits and relaxed eligibility restrictions have contributed to worker hesitancy to rejoining the labor market. But he doesn't think those changes are the biggest factors, citing health and family care concerns as stronger contributing drivers than the padded unemployment checks.

*(SHRM Online ([www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/job-openings-reach-record-high-unemployment-benefits-labor-shortages.aspx](http://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/job-openings-reach-record-high-unemployment-benefits-labor-shortages.aspx)))*

*[Want to learn more? Join us at the SHRM Annual Conference & Expo 2021 (<https://annual.shrm.org/>), taking place Sept. 9-12 in Las Vegas and virtually.]*

## HR DAILY NEWSLETTER

News, trends and analysis, as well as breaking news alerts, to help HR professionals do their jobs better each business day.

Email Address

**CONTACT US ([WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX](http://WWW.SHRM.ORG/ABOUT-SHRM/PAGES/CONTACT-US.ASPX)) | 800.283.SHRM (7476)**

© 2021 SHRM. All Rights Reserved

SHRM provides content as a service to its readers and members. It does not offer legal advice, and cannot guarantee the accuracy or suitability of its content for a particular purpose.

**Disclaimer ([www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer](http://www.shrm.org/about-shrm/Pages/Terms-of-Use.aspx#Disclaimer))**

