

MEMORANDUM

To: Local Port Association Directors, Local Port Employee Benefit Fund Directors,
Local Port Union Officials and Local Port Employers

From: USMX-ILA COVID Pandemic Relief Fund Co-Counsel

Date: November 23, 2021

**Re: COVID Pandemic Relief Fund (“SUB Plan”) Applications
Where State has Discontinued Unemployment Benefits**

To Whom it May Concern:

As you are aware, the COVID Pandemic Relief Fund (“SUB Plan”) was established by USMX and the ILA to help employees replace lost income caused by certain COVID-19 events. The SUB Plan supplements state and federal unemployment benefits and other government and local contract benefits for which eligible employees qualify. An employee is eligible for SUB Plan benefits if:

1. The employee has tested positive for COVID-19 (with proof of positive test);
or
2. The employee has been told to quarantine by their longshore employer or doctor because of close contact with a person afflicted with COVID-19 (with documentation from the longshore employer or doctor); or because the employee has symptoms of COVID-19 (and should obtain a test when available); or
3. The employee must care for a person afflicted with COVID-19 (with proof of positive test) who lives in the employee’s same residence.

However, it has come to the SUB Plan Trustees’ attention that at least five (5) states in which a Master Contract port is located have discontinued state unemployment benefits related to COVID-19, including but not limited to the situations which qualify an employee for SUB Plan benefits. In light of those changes, this letter explains the revised procedures that should now be followed because the state in which your longshore employees work no longer offers unemployment benefits to persons with COVID-19.

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Employees No Longer Need to Apply for State System Unemployment Benefits

Virtually all 50 states have discontinued state system unemployment benefits for COVID-19 related loss of work. Accordingly, employees no longer need to apply for state system unemployment benefits to qualify for SUB Plan benefits. You should no longer request proof of an approved or denied unemployment claim from the employee before beginning to process the employee's SUB Plan benefit application. SUB Plan personnel will likewise be directed to no longer request related documentation in order to process a claim.

Benefits Under the SUB Plan Are Still Only Available After Other Industry-Provided or Government-Provided Benefits Are Exhausted

As a local port association director, local port employee benefit fund director or local port employer, you should learn about the other local state or contractual benefits that may be available to an employee who would otherwise qualify for SUB Plan benefits. For example, if your port provides benefits under the local collective bargaining agreement for accident and health benefits or non-occupational disability benefits for persons with COVID-19, you should be aware of these benefits. The employee should be directed to apply for those state or contractual benefits to which the employee may be entitled, such as temporary disability benefits, as the SUB Plan also provides Supplemental Sick Benefits ("SSB") in those instances.

Still, if you are aware that the employee will not qualify for any other state or contractual benefits, the application should still be processed and calculated using the employee's income rather than the income along with a state or contractual benefit.

For example, if the state in which the employee works offers temporary disability benefits to individuals who fall ill with COVID-19, an employee who lost work due to illness from COVID-19 should be instructed to apply for temporary disability benefits while his or her application for SSB under the Plan is processed. You may wish to contact your legal counsel to assist you in determining what benefits may be available to the employees in your local port.

SUB Plan Application Procedures

In order to qualify for SUB Plan benefits or SSB under this revised procedure, the employee must follow the procedure outlined below.

1. **Submit an Application.** The employee should submit a completed a SUB Plan Application Form, a copy of which is enclosed. You should provide a copy of the Form to an employee upon his or her request and assist the employee in completing the form.

2. **Request Relevant Documentation.** The following are examples of documentation that the SUB Plan will now deem sufficient for the processing of an application according to the employee's situation:
 - a. If an employee is submitting a SUB Plan Application Form because the employee has tested positive for COVID-19, the employee should provide proof of a positive test. The employee should also be directed to apply for TDB, if the state or relevant contract provides for TDB due to COVID-19 related illness.
 - b. If the employee has been told to quarantine by their longshore employer or doctor because of close contact with a person afflicted with COVID-19, documentation such as a letter or email from the longshore employer, or letter or note from a doctor should be provided.
 - c. If the employee must care for a person afflicted with COVID-19, proof of a positive test of the individual who lives in the employee's same residence should be provided.

This list is not exhaustive, and because many states are changing the benefits that they provide, the SUB Plan may reasonably require more or less documentation for a given application.

3. **Provide Proof of Income.** When applying for benefits, the employee must furnish copies of the W-2 tax form for the last full year the employee received wages from industry employers or copies of the employee's pay stubs for wages the employee received from industry employers.
4. **Benefit Calculations.** Benefit calculations should be based upon the amount of other state or contractual benefits the employee is entitled to receive, in addition to the employee's income. If the employee is not entitled to receive any other state or contractual benefits, the benefit amount should be calculated based on the employee's income alone.
5. **Days out of Work.** The application should also include a list of the dates the employee was out of work for a COVID-19 related reason.
6. **Complete an ACH Authorization Form.** In order to receive SUB Plan benefits or SSB, the employee must also complete an ACH Authorization Form, which will enable the direct deposit of SUB Plan benefits or SSB.

Income Tax Withholding on SUB Plan Benefits

The SUB Plan benefits are considered supplemental unemployment benefits and will be subject to federal income tax withholding and may be subject to State income tax withholding.

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Revised Application Form

ACH Authorization Form

Cc: ILA Executive Council