

Congress of the United States
Washington, DC 20515

June 23, 2020

The Honorable Eugene Scalia
Secretary
Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Secretary Scalia:

We write to you today to urge a swift response from the Department of Labor (DOL) to a June 9, 2020 inquiry from Wisconsin Secretary of the Department of Workforce Development (DWD), Caleb Frostman, about the eligibility of Wisconsin recipients of Social Security Disability Insurance (SSDI) for Pandemic Unemployment Assistance (PUA) provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. We have attached the inquiry to this letter for your reference.

PUA was included in the CARES Act to provide assistance to workers who—for a variety of reasons—would be ineligible for regular unemployment insurance. Approximately 175,000 Wisconsinites supplement their income with SSDI. The majority of these recipients work while receiving benefits—which is encouraged by the program. In 2013, Wisconsin’s Republican-controlled legislature passed a law barring Wisconsinites on SSDI from simultaneously receiving state unemployment insurance after losing work.

Under the 2013 Wisconsin law, SSDI recipients are ineligible for regular unemployment insurance. However, the DWD believes that “individuals on SSDI in Wisconsin should be eligible to receive PUA (if they otherwise meet the PUA criteria).” The DWD’s justification for the policy is based on the fact that PUA is intended for individuals who are ineligible for regular unemployment insurance as a benefit of last resort. Because Wisconsin law makes SSDI recipients ineligible for regular unemployment insurance, they should be covered under PUA.


In spite of the DWD’s policy intention, a request for clarification from the DWD to the DOL Region 5 Employment and Training Administration (ETA) received a response on May 29, 2020 indicating that Wisconsin SSDI recipients are ineligible for PUA. The Region 5 response stated that SSDI benefits should be reduced from regular unemployment compensation, “if payable to the individual under the applicable State law.” However, because Wisconsin law states “an individual is ineligible for [regular unemployment insurance] for each week in the entire month

in which a social security disability insurance payment is issued to the individual,” the Region 5 staff believe that Wisconsin law bars SSDI recipients from PUA eligibility.

We agree with Secretary Frostman and the DWD staff that because the CARES Act directs states to apply regulations from the Disability Unemployment Assistance (DUA), Wisconsin individuals eligible for SSDI should be eligible for PUA. The relevant DUA regulations, 20 C.F.R. 625.13(a)(6), require an offset of SSDI benefits, not a prohibition. We also agree that the Region 5 interpretation could be considered discrimination on the basis of disability, which would be in violation of the Americans with Disabilities Act.

In closing, we again request that you provide to the Wisconsin DWD prompt guidance on this issue of crucial importance to Wisconsinites.

Sincerely,



Tammy Baldwin
U.S. Senator



Gwen Moore
Member of Congress



Ron Kind
Member of Congress



MARK POCAN
Member of Congress