

Alert | Labor & Employment



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New York State Department of Labor Issues Regulations Implementing Excluded Worker Fund

The New York State Department of Labor in July 2021 issued [regulations implementing the Excluded Worker Fund](#) (EWF), approved by the New York Legislature in April 2021. The EWF is a \$2.1 billion fund designed to give financial aid to New Yorkers who lost income during the COVID-19 pandemic but were not able to avail themselves of the relief under the federal or state programs, including unemployment and pandemic benefits, which had been set up to assist those who lost employment during the pandemic. The EWF Regulations were [published in the July 28 issue of the NYS Register](#).

The EWF provides two levels of benefits in the form of one-time payments of either \$15,600 or \$3,200, both subject to a tax withholding. The benefit is only available to individuals who (1) were residents of New York before March 27, 2020, and who have remained residents of New York, (2) were not eligible for federal unemployment insurance benefits, or other COVID-19-related benefits, and (3) suffered a total or partial loss of work-related earnings due to the COVID-19 pandemic, or became responsible for a majority of their household income due to death or disability of the head of household. The regulations state that the loss must have been at least 50% of their pre-pandemic work-related earnings or household income at any time between Feb. 23, 2020, and April 1, 2021, and require that individuals must have worked more than 15 hours per week for at least six weeks in the six-month period preceding the loss of income during the pandemic. The documentation required for the two tiers varies, with the requirements for the \$15,600 being more stringent as to proof of income, and the \$3,200 benefit necessitating certified proof of residency and identity but allowing alternate proof of work-related eligibility. The Department of Labor has begun accepting applications; the program will end when the full amount of the fund has been

distributed. The program has no cost to employers, and will mostly impact workers paid in cash and/or off the books.

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