



RESPONSES TO QUESTIONS FROM THE JOINT SPECIAL COMMITTEE ON CORONAVIRUS RESPONSE MEETING ON MARCH 20, 2020

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SUMMARY

On March 20, 2020 the Joint Special Committee on Coronavirus Response met to discuss [policy recommendations](#) to address the coronavirus (COVID-19) pandemic. Below is a list of responses to questions that were asked by Committee members. If you have any further questions, please contact the Legislative Policy and Research Office at 503-986-1813 or LegislativePolicyandResearchOffice@leg.state.or.us

HOUSING – POLICY 2

Can a rent freeze or prohibition on rent increases be applied retroactively after March 9th?

Yes, it's possible, but discouraged; Legislative Counsel's office can provide advice concerning retroactive application of laws and should be consulted. No other states have acted to freeze rent at this time, and no discussion of retroactive application of same has been identified. Committee staff will follow up with Legislative Counsel.

Do current price gouging protections cover/apply to large rent increases?

Other protections exist. In most situations, residential rent may not be increased within the first year of a month-to-month tenancy. And, in most situations, residential rent may not be raised more than 7 percent plus the average consumer price index (CPI) for the Western region in any 12-month period - but this is not applicable to new construction, resetting rent for most new tenancies, or subsidized housing.

"Price gouging" typically refers to products and services, not rent increases, but someone could advance an argument or theory that in these unprecedented circumstances, a landlord seeking to maximize rents immediately following a pandemic declaration constitutes price gouging. There is likely case law around whether a rent increase constitutes price gouging, but the pandemic provides a means to distinguish current circumstances from precedent. Committee Staff will follow up with Legislative Counsel's office for an opinion about that likelihood and whether consumer protections should be clarified or strengthened.

FOOD – POLICY 3

Food insecurity is a family's inability to provide an adequate amount of healthy food for everyone living in the household. Several factors can cause food insecurity, and the COVID-19 pandemic will contribute to an increase in the number of food insecure children due to lay-offs, unexpected expenses, housing concerns, and school closures.

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Are schools offering drive-thru lunch pickups for families, and if not, are there plans for accommodations for families if the need exists?

Some Oregon communities and schools are organizing free lunch pick-up locations for students and food insecure families. In most districts, families can drive to a school site and pick up breakfast and lunch. Each school site has specific times where both breakfast and lunch can be picked up daily. The Oregon Department of Education (ODE) has created a webpage that provides direct links to each school district's webpage with information on sites providing meals during school closures.

The US Department of Agriculture (USDA) hosts a Summer Food Rocks website providing site locations for Summer Food Service Program and Seamless Summer Option Meal Delivery sites operated during the summer. The USDA will be activating the site during coronavirus school closures.

Currently, Oregon schools are not being reimbursed by the state for these additional meals. Some of the meals may qualify for federal reimbursements.

Are school buses used/able to be used for food drop off?

It has been reported that school lunch pick-up locations are not being visited by many families. This could be from lack of awareness or transportation barriers. Families who rely on public transportation have difficulties accessing the lunch locations due to conflicting information or fears regarding the use of public transportation and/or transportation services like Uber or Lyft.

School buses are being used to deliver food at school bus stops. Additional school bus stops have been added for this purpose. Schools can deliver a week's worth of food to homes. The Oregon Department of Education (ODE) applied for federal waivers that would allow them to drop food off at homes and meal pick-up sites. A list of the waivers and other helpful information sent to schools is attached.

Can schools provide food for the elderly and other populations in need?

According to ODE, providing food for elderly or other populations in need is more challenging, but if a national disaster declaration is issued by the President, there would be more flexibility on how school sites could be used.

How does the Department of Human Services plan to serve Oregonians accessing the Supplemental Nutrition Assistance Program (SNAP) for the first time, and how will they serve Oregonians who do not have internet access and get the word out about available programs?

The Department of Human Services (DHS) is promoting and encouraging online access for SNAP participants. The best option for Oregonians without internet access is to call the office and have a worker assist them with their applications or visit a branch office (all remain open).

Is DHS experiencing barriers in creating flexibility related to SNAP? Are there barriers the legislative body can help with?

Yes, DHS' ability to collect telephonic signatures is not possible in the existing system. If the ONE/IE system will accept and record a telephonic signature, this technology should be implemented now and a database should be set up to allow for the audio files to be stored and later attached to the household's ONE/IE case.

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Are there exceptions needed for SNAP?

DHS is seeking approval on SNAP waivers allowing for mass emergency allotments for existing households, allowing individuals to regain eligibility after meeting time limit requirements and that expand options of foods that can be purchased using EBT benefits (example: hot/prepared foods).

DHS is working with ODE on the implementation of Pandemic P-EBT¹ which will provide food benefits to households with children who receive free or reduced school meals regardless of SNAP eligibility. DHS is in the process of testing this in their systems and gathering information/data from ODE to see if this will be possible.

How much flexibility is there/what changes are already in effect for SNAP?

Branches are practicing social distancing efforts. These include setting up phones for participants to use to talk to workers, conducting interviews over the phone and not requesting interviews when no income is reported by household.

DHS received approval on Friday March 20 to extend certifications for six additional months without requiring an application for the months of March, April and May.

SNAP households are no longer required to complete an Interim Change Report (852) in order to continue with their certification period. This only applies to reports coming due in April and May 2020.

DHS has requested SNAP waivers and has begun to implement flexibilities for SNAP interviews, verification and determining good cause for Able Bodied Adults Without Dependents (more information has been requested from Food and Nutrition Services).

OREGON FAMILY LEAVE ACT (OFLA) – POLICY 9

What has the Bureau of Labor and Industries (BOLI) concluded relating to a public health emergency as qualifying under OFLA for employee taking leave from work to care for children not in childcare or school?

The Oregon Family Leave Act (OFLA) provides for time-off for an employee to care for a sick child for an illness, injury, or condition that is not serious, or school closures by order of a public official during a public health emergency even if the individual child is not sick. A school closure by Governor Brown based on the Centers for Disease Control and Prevention and the World Health Organization guidance constitutes action to prevent a serious health crisis/pandemic. Children may or may not be at risk or create a risk by being together and thus require home care by parents and other caregivers.

Oregonians can use OFLA to take protected time off to care for their children during official school closures to limit the spread of coronavirus. This leave is protected, but not paid unless

¹ In 2009, after schools closed due to H1N1, Congress authorized the expansion of SNAP benefits to Pandemic Supplemental Nutrition Assistance Program (P-SNAP) which provided access to SNAP benefits for eligible students who were enrolled in a school that closed. The same concept is included in the Families First Coronavirus Response Act (H.R. 6201, Sec. 1101) and called P-EBT.

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employees use available paid time-off they have accrued. Workers who work for an employer that has at least 25 employees are eligible for OFLA (and meet other criteria).²

HEALTH CARE – POLICY 11

What is going on with commercial insurers with respect to pay parity for telehealth?

Federal Medicare and Medicaid have issued clear guidance on the use of telehealth during the COVID-19 epidemic. The Oregon Department of Consumer and Business Services (DCBS) continues to discuss telehealth with commercial carriers. Other states have addressed telehealth access, coverage, and reimbursement in the commercial market through Executive Order (Massachusetts) or through action by the responsible regulatory agency (New York). A question remains as to what can be accomplished by the Insurance Commissioner independently, what the Governor could accomplish by Executive Order, and what would require legislative action.

- Medicare – Will make payment for Medicare telehealth services furnished to patients in broader circumstances. Visits are considered the same as in-person visits and are paid at the same rate.
 - [Press Release](#)
 - [Fact Sheet](#)
- Medicaid (Oregon Health Plan)
 - Division of Medical Assistance Programs (DMAP) [Temporary Rule 7-2020](#). Amends Telemedicine Rule to Align with Updated Practice Guidelines and Respond to Infectious Disease Outbreaks
 - Division of Medical Assistance Programs (DMAP) [Temporary Rule 8-2020](#). Updates to the Prioritized List of Covered Health Services to Improve Access to Telehealth
- The DCBS COVID-19 [website](#) – FAQs, includes telehealth coverage (“The division expects health insurance companies to cover all appropriate in-network services for members by phone, video, and Internet during the duration of the COVID-19 outbreak.”)

Are there any supports available for providers who have voluntarily emptied their offices and who may want to provide telehealth?

Washington state’s Health Care Authority (HCA) has [purchased](#) a limited number of licenses for Zoom, a video conferencing technology that helps health care providers continue seeing patients without a physical encounter. HCA is distributing a limited number of licenses free of charge to providers who have a meaningful need for this platform to support continuity of care, and do not already have access to telehealth technology. HCA will prioritize Zoom licenses for those providers who need them most.

² See the temporary rule affecting the Oregon Family Leave Law: OARD Temporary Rule Filing - OAR 839-009-0230: <https://www.oregon.gov/boli/WHD/OST/Documents/OARD%20Temporary%20Rule%20Filing%20-%20OAR%20839-009-0230.pdf>

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Are hospitals asking the legislature to make up the difference between telehealth and in-person reimbursement rates?

Oregon rural hospitals who currently are not paid as the originating site, are requesting reimbursement for this service (especially now that the majority of their revenue has been put on hold with the suspension of elective procedures). A second issue is allowing providers who are already in a multi-state system but not physically located in Oregon and are not licensed in Oregon to provide telehealth services in Oregon facilities.

Telehealth: How can Oregon ensure payment/reimbursement equity through healthcare system across payer types?

Massachusetts has [ordered](#) all commercial insurers, self-insured plans and state health plans to cover all clinically appropriate telehealth services at the same rate as in-person care. See response above on recent federal actions on telehealth for Medicare and Medicaid.

WORKFORCE – POLICY 14

Does reciprocity exist in Oregon for providers licensed in another state during crisis? If not, how can this be achieved?

The Governor's Executive Order No. 20-03 (Declaration of Emergency Due to Coronavirus (COVID-19) Outbreak in Oregon) directed state agencies to "develop and implement procedures, including waiving rules or adopting temporary rules within the agency's authority, consistent with recommendations from the state Public Health Director, designed to prevent or alleviate the public health threat" of COVID-19. Pursuant to this direction, several Oregon health care regulatory boards have adopted rules or policies designed to increase the health care workforce during the emergency. These actions include:

- Oregon Medical Board (OMB) – adopted a [temporary rule](#) that:
 - Lifts practice restrictions on Emeritus and Lucum Tenens physicians and physician assistants (PAs)
 - Implements a new expedited reactivation process for administrative medicine, inactive, lapsed, and retired physicians and PAs
 - Institutes an Emergency Authorization Application for out-of-state physicians and PAs
- Oregon State Board of Nursing (OSBN) – offering an [emergency temporary licensing exception](#) for nurses and nursing assistants licensed in another state or US territory
 - NOTE: Retired nurses can currently apply for reactivation if they still have 960 hours of practice in the previous 5 years. Alternatively, a nurse who wishes to volunteer during the pandemic may apply for [a nurse emeritus license](#).
 - NOTE: [Senate Bill 66](#) (2019) authorized OSBN to recognize military education or training programs as sufficient to meet the licensure requirements for licensed practical nurses
- The Health Licensing Office (HLO) has [authorized](#) out-of-state licensed respiratory therapists to obtain temporary licensure in Oregon during state of emergency

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What other changes has the DHS Self-Sufficiency Program made to better serve Oregonians during this state of emergency?

Employment Related Day Care (ERDC). To support Oregon's working families dealing with the spread of COVID-19, DHS has made temporary changes, effective immediately, to help more low-income, working families access child care and help providers stay in business during the state of emergency. The changes to ERDC include:

- Eliminating of co-pays for eligible families,
- Increasing the income limit for new applicants from 185 percent of the federal poverty level to the higher exit limit (approximately 85 percent of the State Median Income)
- Providing stability to providers by making payments for absences or temporary closures related to COVID-19 for both ERDC and TANF child care. For more information on these changes, see the March 17th news release [here](#).

SERVICES FOR DOMESTIC VIOLENCE VICTIMS, INDIVIDUALS WITH DISABILITIES, AND FAMILIES INVOLVED IN THE COURTS

Domestic Violence and Child Protection Services

The risk of personal safety increases in social isolation, and shelters and crisis programs protecting children and adults from domestic violence anticipate a significant increase in incidents and needs for services. Oregon's crisis hotlines have seen a significant increase in calls as more people are confined to their homes. Shelters and crisis programs provide a range of emergency services for those in crisis, including sheltering victims in need, providing hotel vouchers, counseling, and in-person health screenings.

The Oregon Coalition against Domestic and Sexual Violence (OCADSV) posted a list of impacts to shelters and programs across the state and announced a suspension of in-person hospital advocacy services. Children's Advocacy Centers, which provide essential services for children who suffer from abuse and reduce the incidences of abuse by working alongside families during times of significant stress, have limited hours and started screening children and families for illnesses prior to offering services within each center. Some shelters and centers will be forced to close due to limited means for providing services to families while following social distancing guidelines.

Temporary Assistance for Domestic Violence Survivors (TA-DVS) DHS is taking extra precautions regarding domestic violence cases during the state of emergency. They started three initiatives for support detailed below;

- For safety reasons TA-DVS applications should be processed face to face, however based on the survivor's preference, these can now be processed by phone. All TA-DVS applications are to be processed immediately. DHS has provided staff additional resources and support on mobile and technology safety precautions.
- Additional domestic violence resources are being sent to all DHS staff, including but not limited to: Domestic Violence National Hotline, statewide DV resources, connection to advocates, resources on mobile safety, mobile advocacy resources, and child related resources. Reminders are being sent to DHS staff on the resources available to them if they are experiencing domestic violence.

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- Currently, DHS is preparing resources and information to share with the community showcasing local and state domestic violence resources, how to apply for the TA-DVS program, and how to get in contact with DHS offices for questions.

Family Court Hearings and Operations

Families involved with the courts are impacted by the halt of hearings and court operations. Some family court hearings have been postponed, leaving families in limbo without clear direction on following isolation guidelines without disrupting court orders. The lack of guidance for lawyers has led to inconsistent conduct toward families with unresolved custody matters. Furthermore, children in families with informal custodial agreements are also at risk of contracting or spreading the virus if they are moving between households during the stay home order.

Current Actions by the Courts

- March 18th – Trials and court hearings postponed by order of the Chief Justice, except proceedings involving people in jail with a legal right to a speedy trial, civil commitment hearings, and certain protective order, family law, guardianship, and treatment court proceedings. The order can be found [here](#).

Policy Options

- Require courts to hold timely hearings on temporary custody/parent time orders, parenting time enforcement orders, and status quo orders by video/phone, instead of postponing them.
- Temporarily allow ex parte orders of assistance (directing law enforcement to bring a child back to the parent who has custody) to be heard
- Request a Supreme Court opinion that quarantine, including level of quarantine, is a medical decision to be made by a custodial parent and make-up time will be appropriate at a later date
- Issue specific, detailed guidance and/or orders to all families with children regarding the movement between households during isolation

Services for Individuals with Intellectual, Developmental, or Physical Disabilities

Services for people with disabilities range from assistance with daily household functions (such as grocery shopping and cleaning) to cooking, dressing, and bathing. Sheltering in place, social distancing, and self-quarantining creates a significant disruption for people receiving these compulsory services as well as providers who are essential for their clients. Direct Support Providers (DSPs) and Personal Support Workers (PSWs) currently are not considered “emergency workers” and thus do not have access to Personal Protective Equipment (PPE), child care, and other requirements for providing safe, quality care during the pandemic.

Policy Options

- Lift overtime limitations on service providers/ allow providers to use overtime pay
- Suspend restrictions on family/relative caregivers providing essential care services
- Allow payment for providers assisting clients in hospitals
- Ensure continuation of supportive services upon hospital discharge

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- Provide support workers with paid sick leave
- Classify DSPs and PSWs as “Health Care Workers” or “emergency workers” so that they may access essential resources such as PPE, access to child care, etc.
- Provide DSPs with access to household essentials (toilet paper, cleaning supplies)
- Extend bed holds to 60 days to allow residents in care facilities to spend time with family, visit a hospital if needed, etc.
- Authorize and require insurers cover 90-day prescription refills
- Include nondiscrimination protections with all policy changes

NEXT STEPS

Legislative Policy and Research Office staff are continuing to work to answer the following questions for the Committee that were asked on the Friday, 3/20 meeting:

- Is the Employment Department suspending the paid family leave rulemaking process?
- How can a provider in another state get reimbursed for COVID-19 services provided to Oregon resident?
- How can cultural competency requirements and equity efforts be expanded temporarily among healthcare workforce?
- What policies can be put in place for hospitals to ensure debt burden relief?

Additional information will be provided to you as soon as possible.

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Attachment A: Oregon Department of Education Waivers for Food Delivery

Specific information on purpose and impact of each federal waiver ODE has requested, and approval status.

1. Waiver request to operate the Summer Food Service Program (SFSP) or Seamless Summer Option (SSO) during unanticipated school closures at school sites.
 - a. Purpose: Allows school districts to operate the SFSP or SSO during an unanticipated school closure at a school site. Current regulations only allow SFSP or SSO to be operated at non-school sites during an unanticipated school closures.
 - b. Impact: Increase access to nutritious meals that can be reimbursed through school sites during an unanticipated school closure
 - c. Status: *Approved*
2. Waiver request to operate SFSP/SSO non-congregate feeding for sponsors operating during COVID-19 unanticipated school closures.
 - a. Purpose: Allows all SFSP or SSO sponsors to serve non-congregate meals during unanticipated school closures. This allows students to receive a meal and consume elsewhere. Current regulations only allow meals to be served in a congregate setting.
 - b. Impact: Improve access to nutritious meals that can be reimbursed and prevent the exposure/spread of COVID-19 by allowing children and students to consume meals in non-congregate settings.
 - c. Status: *Approved*
3. Waiver request to waive meal time restrictions in SFSP/SSO during unanticipated school closures.
 - a. Purpose: Removes the restriction of a minimum time to elapse between meal services in SFSP and SSO. Current regulations require that three hours must elapse between the beginning of one meal service and the beginning of another.
 - b. Impact: Allow two meals to be provided at the same meal service and be reimbursed
 - c. Status: *Approved*
4. Waiver request to waive the first week site visit for returning SFSP sites that have operated successfully in the previous year.
 - a. Purpose: Removes the requirement that returning SFSP sites must conduct a first week visit. Current regulations require that returning SFSP sites must have a site visit completed in the first week
 - b. Impact: Eliminate the burden of completing a first week site visit
 - c. Status: *Approved*

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5. Waiver request to waive the area-eligibility requirement for SFSP and SSO
 - a. Purpose: Eliminates the requirement that a site be area eligible. Current regulations require that for a site to be eligible for SFSP or SSO, the site must be located in a school attendance area where at least 50 percent of the children are eligible for free or reduced-price school meals.
 - b. Impact: Increase the number of sites that can participate on SFSP and SSO and be reimbursed for meals offered.
 - c. Status: *Submitted to USDA on March 16. USDA still reviewing. Not yet approved.*
6. While not waivers, USDA has also approved the following:
 - a. School Food Authorities approved to operate SFSP or SSO sites can claim meals directly served to children's homes
 - b. Meals can be offered and claimed through the SFSP, SSO or the National School Lunch Program or School Breakfast Program if school facilities are closed but schools continue to operate.

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Attachment B: Helpful Information sent to School Districts

“The USDA is now allowing reimbursement during planned Spring Break dates and unanticipated school closure dates. What follows is more technical information that either a nutrition manager in your district or ODE can help you further digest if needed.”

The four important headlines are:

- a) Sponsors can claim meals offered during spring break,
- b) Summer Food School Program (SFSP) and Seamless Summer Option (SSO) sponsors can serve and claim breakfast and lunch if/when offered at the same time,
- c) School Food Authority sponsors of SSO and SFSP sites can claim meals directly served to children’s homes, and
- d) Meals can be offered and claimed through the SFSP/SSO or the National School Lunch Program (NSLP)/School Breakfast Program (SBP) if school facilities are closed but schools continue to operate.

Here are the details for each:

a) Sponsors can claim meals offered during spring break. Sponsors have options to qualify for reimbursement by offering meals during school closures. Sponsors may claim reimbursement for meals approved under SSO and SFSP during a scheduled spring break that was canceled or postponed due to an unanticipated school closure resulting from the coronavirus.

b) SSO and SFSP sponsors can serve and claim breakfast and lunch if/when offered at the same time. This was originally approved for SFSP sponsors only. The USDA provided approval for SSO sponsors as well.

c) School Food Authority sponsors of SFSP and SSO sites can claim meals directly served to children’s homes:

- Schools that have been approved for non-congregate feeding through SFSP or SSO may be reimbursed for meals delivered directly to children’s homes.
- Schools electing to deliver meals may serve only children who are in area eligible locations or who are eligible for free or reduced-price meals.
- Schools operating a closed-enrolled site may enroll children who are certified as eligible for free or reduced-price meals, and deliver meals only to the enrolled, eligible children.
- Delivery may include more than one meal, e.g. a breakfast and a lunch, per delivery location as ODE previously received USDA approval to waive mealtime restrictions in SFSP and SSO
- Delivery may include meals for multiple days, up to one week at a time.

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- When meals are delivered, children do NOT need to be present at the time of delivery as long as the school has obtained written consent from households that they want to receive delivered meals.

d) Meals can be offered and claimed through the SFSP/SSO or the National School Lunch Program (NSLP)/School Breakfast Program (SBP) if school facilities are closed but schools continue to operate.

- SFSP/SSO option - If school buildings are closed unexpectedly during the school year due to COVID-19, the USDA considers this an unanticipated school closure. Even if the district is operating or providing online school, if the building is closed and students cannot attend their physical school location for classes, SFAs and community organizations (COs) may operate SFSP and SSO programs as permitted under program requirements.
- NSLP/SBP option - If an SFA considers a school to be operating and wishes to continue offering NSLP and SBP during such building closures, non-congregate meals can be offered. Schools would continue to claim and be reimbursed for meals based on the eligibility status of the individual student. All other NSLP and SBP requirements would apply

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Attachment C: Additional Impacts and Actions in Human Services

Refugee Program

To support Oregon's Refugee Communities, the Refugee Program is working closely with local Refugee Resettlement Agencies and partners to reduce barriers and increase understanding for individuals and families to access essential services.

- A process is currently being created for Refugee Resettlement Agencies (RRA) to assist refugees to complete the applications for DHS benefits via phone and electronic when needed in situations such as language barriers.
- Instructions have been given to RRA's and other contractors to reach out via phone/email to the refugee families and check in regularly. This includes Refugee Senior Services, Oregon Refugee Children Assistance Services, Refugee Employment Services, and Refugee Youth Mentoring Programs.
- All Refugee Program Contractors will meet weekly or more via skype to collect updates. The information will then be shared directly with the families by partners to ensure that individuals and families understand updates.
- All gatherings for Refugee Program contracted services have been instructed to stop any person activities and provide services to the extent possible via phone and email.

Temporary Assistance for Needy Families (TANF)

The TANF program continues to review all options available to increase services and remove any possible barriers to assist Oregonians during the current state of emergency. The changes that have been implemented to date include:

- An online application in conjunction with a verbal signature now establishes a filing date. This allows people to apply without coming to a branch office or waiting while the department gathers a written signature.
- All federally required interviews will be done via phone and any additional information needed will be gathered via phone and electronically when possible.
- During the state of emergency individuals are excused from participation in any activities on their personal development plan that would put themselves or their family at risk due to COVID-19.
- The department will not be disqualifying any TANF families from the program due to non-participation of required activities and,
- All current disqualifications are being removed during the state of emergency. Where applicable as related to disqualifications, grant supplements will be issued back to 3/8/2020; and
- Those families who had a case closed due to a disqualification since the state of emergency was implemented will be able to re-apply for benefits.