Taming the COVID-19 Chaos:
What Employers Need to Know
PART 4

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Presented by
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Stay-at-Home Orders

- California: “Shelter in Place”
  - Issued 3/19 – Effective until further notice
- Oregon: “Stay Home, Save Lives”
  - Issued 3/23 – Effective until further notice
- Washington: “Stay at Home - Stay Healthy”
  - Issued 3/23 – Effective until at least 4/6
- Idaho: “Stay at Home”
  - Issued 3/25 – Effective until at least 4/15
- Alaska: No statewide stay-at-home order yet
  - Statewide travel restrictions
  - Anchorage “hunker down” order issued 3/20

Families First Coronavirus Response Act (FFCRA)

- Refresher of leave provisions:
  - Emergency FMLA for childcare
    - 12 weeks, 10 weeks of which are paid at 2/3 regular rate
    - 1st 10 days are unpaid (but employee may use leave, including Emergency Sick Leave)
    - Employees employed for 30 days are eligible
  - Emergency Sick Leave for various COVID-19-related reasons
    - 80 hours, paid at either full rate or 2/3 rate, depending on the reason for leave
    - All employees are eligible
  - Tax credits against payroll taxes available for payments made (including for non-profits)
Now available on the DOL website: [https://www.dol.gov/agencies/whd/pandemic](https://www.dol.gov/agencies/whd/pandemic)

- Post in conspicuous place at worksite
- Good idea to email or post to intranet given stay-at-home orders
- Must provide to new employees, but no obligation to provide to laid off employees
- Only employers required to provide FFCRA leave are required to post (most public employers and private employers w/fewer than 500 employees)

No regulations yet: expected in April

- Effective date of the FFCRA is April 1
- No retroactivity (and no tax credits for payments before April 1)
- Emergency Sick Leave is separate and in addition to employer’s leave programs
- Temporary employees are eligible for Emergency FMLA
- Counting employees under the FFCRA
- Likely exclusions for health care provider employees and businesses under 50 employees w/hardship
- Records to keep when an employee takes leave
Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Updated version of bill passed by Senate on 3/25 – House must still vote
- Direct payments to individuals
- Clarification that Emergency FMLA available to rehired employees w/out 30-day wait
- Increased unemployment benefits
  - Extra $600 in benefits for individuals
  - 13-week extension beyond state-provided benefits
  - Expansion of those who are eligible: self-employed, independent contractors, limited work history
  - Federal $ to cover 1st week of benefits for states that eliminate waiting period

CARES Act

- Payroll assistance
  - SBA loans for businesses w/fewer than 500 employees – covering payroll and benefits
  - Some loans may be eligible for forgiveness (reduced if employees have been laid off)
CARES Act

- Employee retention tax credit
  - Up to 50% of “qualified wages” paid during COVID-19 pandemic
  - If operations fully or partially suspended due to a shutdown order OR if gross receipts declined by more than 50% since same quarter prior year
  - “Qualified wages” depends on size of employer
- Deferral of payment of employer payroll taxes
- Employers who receive forgiveness of SBA loans under CARES Act are not eligible for tax credit or deferral of payment

What to do with our workforce during a shutdown or slowdown?

- Reduction in hours and/or pay
  - Some states require advance notice of change in compensation
  - Some employees may be eligible for unemployment
- Furloughs
  - Employees may be eligible for unemployment
  - Be aware of limitations for exempt employees (full salary for any week in which work is performed)
  - Check with insurer re continuation of benefits or have employees elect COBRA
What to do with our workforce during a shutdown or slowdown?

- Layoffs (temporary or permanent)
  - Employees likely eligible for unemployment
  - Temporary may be eligible for unemployment on a standby basis with no obligation to seek new employment
  - Consider possibility of CARES Act benefits before layoffs
- Continue full employment
  - CARES Act benefits may assist if legislation is passed
  - Employees’ use of accrued leave banks and/or FFCRA leave

FAQs

- What is an essential business or service for purposes of a shutdown order?
- Is Emergency FMLA in addition to regular FMLA? Does the requirement of 50 employees within 75-mile radius apply? Are we now required to extend other types of FMLA leave if under 50 employees?
- Are very small employers exempt from the FFCRA?
- What do I do if I have an employee who refuses to come into work right now?
Questions?

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