



HR TOOLKIT FOR SURVIVING COVID-19

MASCPA – 4/16/2020

New CDC Guidance says Essential Employees can Continue Working after Coronavirus exposure

- Reversing course on employee quarantines, federal health officials now say that essential workers who've been exposed to the coronavirus can stay on the job while monitoring their symptoms.
- The new guidance, released by the Centers for Disease Control and Prevention (CDC) on April 8, applies only to businesses deemed critical, such as hospitals, grocery stores and food processing plants.
- Previous guidance called for all workers to isolate at home for 14 days after being close to anyone suspected of having the virus, in case they too became sick and infected others. Now employees can keep working as long as they don't have symptoms, but they should wear a facemask, avoid getting close to other people, and submit to a daily temperature check.



HEALTH AND WELFARE PROVISIONS

1. High Deductible Health Plan that does not have a deductible for telehealth services will continue to be HSA-eligible even if it covers telehealth services before the plan's statutory minimum deductible has been met. Effective through December 31, 2021.
2. Allows individuals to use HSA, FSA and HRA dollars on over-the-counter drugs and on menstrual care products without a prescription. Reverses changes made by the ACA in 2010 that did not treat such drugs and products as qualified medical expenses unless prescribed.



INCREASED AVAILABILITY OF RETIREMENT FUNDS

- 1. Temporary Withdrawals Through 2020 of up to \$100,000
 - a. No 10% early withdrawal tax
 - b. Taxed ratably over 3 years
 - c. Ability to repay

- 2. Increased Limit on New Loans Through 9/21/2020
 - a. Replaces \$50,000 with \$100,000 and 50% with 100% account balance limit

- 3. Up to a One-Year Extension on Existing Loans

INCREASED AVAILABILITY OF RETIREMENT FUNDS

- 1. These special payments can be made to an individual:
 - a. Who is diagnosed with COVID-19 by a test approved by the CDC,
 - b. Whose spouse or dependent is so diagnosed, or
 - c. Who experiences adverse financial consequences as a result of being quarantined; being furloughed or laid off or having work hours reduced to such virus; being unable to work due to a lack of child care due to the virus; closing or reducing hours of a business owned or operated by the individual due to the virus; or such other factors determined by the Secretary of Treasury.
-
- 2. Optional for plan sponsors; amendments required by 2022



EMPLOYER PAYMENTS OF STUDENT LOANS

1. Expands Code Section 127 to allow employers to contribute up to \$5,250 towards employees' "qualified education loans."
2. Payments can be made either to the employee or to the lender directly.
3. Only effective for payments made through December 31, 2020.



EMPLOYER CONSIDERATIONS IF CONSIDERING SHORT-TIME CONSIDERATIONS OR WORK SHARE PROGRAM

- 1. Inadvertent change in classification status; exempt to non-exempt
- 2. Possibility for discrimination
- 3. Pay-equity violations
- 4. Proper notice of changes to hours and wages
- 5. Implications for health benefits
- 6. Potential employment contracts for consideration



TO FURLOUGH OR NOT FURLOUGH

- May impact unemployment-benefit availability for workers
- Implications for exemption status – exempt employees should be furloughed in week-long intervals, if possible, to maintain exempt status
- Required notices (WARN, mini-warn)
- Final-pay requirements depending on jurisdiction
- Implications of paid leave
- Impact on eligibility for various benefits under the CARES Act
- Consideration and documentation of reasons for furlough
- Implications for leave under FFCRA

ADDITIONAL QUESTIONS SUBMITTED

1. “We are a machine tool repair company that sends technicians out to customer facilities to repair their machinery. I am looking for guidance on how I can keep my technicians safe and know the status of the customer’s environment. What questions can we ask of the customer, and what can we require of them?”
 - A. You can contact your customers and ask what precautions they have instituted in their home or place of business; Prior to sending your technician out, ask customers if they or anyone within their household or place of business have been exposed to COVID-19 or if they have been in contact with anyone who has COVID-19; You can instruct your employees to follow the guidelines as set before the CDC and OSHA (use anti-bacterial spray, use anti-bacterial wipes on everything they touch; require that your technicians to wear gloves and masks when working

A2: Here is the OSHA guidance https://www.osha.gov/SLTC/covid-19/controlprevention.html#repair_services
Here are some good articles.

- <https://www.servicepower.com/blog/field-services-and-covid-19-coronavirus>
- <https://www.fieldtechnologiesonline.com/doc/the-impact-of-covid-on-the-field-services-industry-0001>

ADDITIONAL QUESTIONS

2. We furloughed some employees for April and continued to pay their health insurance while they collected unemployment, but now that this is lasting longer, some may turn into a lay off in May. If that is the case, can we still pay their health for May or are they forced to go on COBRA or Obamacare? If they go on COBRA or don't have insurance for this lay off period, would there be any adverse impact on their health benefits when they returned to work (i.e. waiting period or deductible starts over, or pre-existing conditions not covered?).

A: Yes you can continue to pay health premium for employees, there is no expiration date for a furlough until an employer determines one.

A:2 – speak with your broker, the employer may be able to adapt the plan design to avoid the deductibles, etc. They may also have a provision for employees who are laid off during this unprecedented time

ADDITIONAL QUESTIONS

If an employee presents symptoms of COVID-19 (i.e., fever, chills, etc.) but the fever goes down, how long before I can bring them back into the workplace

A. 72 hours of no fever is recommended

Can an employee take the 80 hours of Sick Time Leave and the expanded FMLA if someone else is available to care for the child(re) in the home?

A. The DOL is clear that an employee can only take this leave time if they are the ONLY person who is available to stay at home with the child(ren), not if the spouse is available and home or if a babysitter is available to the employee

ADDITIONAL QUESTIONS

Can my employee take intermittent expanded FMLA?

A. An employee may take the time intermittently, ONLY if the Employer and Employee agree to the arrangement; an employer is NOT required to allow intermittent leave

Can an Employer require telework for our employees?

A. The answer is simply, Yes. If you have work available to your employees who can work safely from their home and you have provided them the proper equipment and access, an employee cannot deny working and then assume they can collect unemployment. In only extenuating circumstances can an employee refuse to work from home – i.e., Power outage at their home, they don't have access to the Internet, or they themselves have COVID-19