What Is Life After Coronavirus?

Understanding Employer Compliance And Safety

Renee West, SHRM-SCP
Senior Manager
HR Consulting Services
Rea & Associates
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Agenda

• CDC Facts & State Resources
• Families First Coronavirus Response Act
• Compliance - Legal Liabilities
  o Family Medical Leave Act
  o Americans with Disabilities Act
  o Department of Labor – Compensation
  o Unemployment Compensation
  o Employee Discussion Guidelines

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Agenda

• Moving forward proactive employer approach
  o Review of employee handbooks
    ▪ FMLA, Medical Leaves of Absences
    ▪ Temporary Remote Work Policies
    ▪ Crisis Communication Plan & Policies – update
    ▪ Best Practices – how do we retain furloughed workers?
Centers for Disease Control and Prevention, State Statistics

- 88 confirmed cases in Ohio as of March 18, 2020

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Goals of Community Mitigation for COVID-19

Community Mitigation Methods in Ohio
- Social distancing
- Staying home when sick
- Implementing telework and e-learning
- Closing schools
- Banning large gatherings
- Traveling only when necessary
- Suspending visits at hospitals and nursing homes
- Monitoring those who are sick
- Moving polling locations

For more information go to coronavirus.ohio.gov

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CDC & State Resources

- CDC Resources
- White House Task Force
- The Ohio Channel, Governor Mike DeWine's page
- World Health Organization

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Employer Resources

• Shared Work Ohio
  o [jfs.ohio.gov/ouio/SharedWorkOhio](jfs.ohio.gov/ouio/SharedWorkOhio)
  o Alternative to layoffs for employers
    ▪ Allows workers to remain employed and employers to retain staff during times of reduced business activity
  o Employers should provide Ohio Department of Job and Family Services with a list of participating employees and specify their normal weekly hours of work, not to exceed 40 hours and not including overtime
    ▪ Part-time employees may be eligible, but all employees in an affected unit must have their hours reduced by the same reduction percentage
Family First Coronavirus Response Act (FFCRA)

- Approved by Senate on 3-18-20

- Approved by President evening of 3-18-20

- Stay tuned for details as to effective date and specifics.
Family First Coronavirus Response Act (FFCRA)

- What does act provide?
  - Free Coronavirus testing
  - Paid emergency leave
  - Enhanced unemployment insurance
  - Additional funding for nutritional programs
  - Protections for health care workers and employees responsible for cleaning at risk places
  - Additional federal funds for Medicaid
Family First Coronavirus Response Act (FFCRA)

• Pending details for paid sick leave
  o Employers to provide 80 hours of paid sick leave for:
    ▪ Mandated Quarantine due to COVID-19 by government or health care provider
    ▪ At onset of symptoms for virus until medical diagnosis obtained
    ▪ Caring for relative who is in quarantine
    ▪ Child care due to closed school or daycare provider
    ▪ Capped at $511 a day for workers own care
    ▪ $200 a day for care of other as defined above
    ▪ Benefits of act will expire at end of 2020

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Family First Coronavirus Response Act (FFCRA)

• Large and Small Business Exceptions
  o Private businesses with more than 500 employees would not be covered
  o Employers with fewer than 50 employees could file for an exemption from providing paid leave if it “would jeopardize the viability of the business”
Family Medical Leave Act

• FMLA
  o 50 or more employees within 75 mile radius
  o 12 weeks unpaid leave for qualifying reasons
  o Quarantine issues if infected
  o Pending federal legislation for paid leave benefits
  o Would need to run concurrent with any leaves
Americans With Disabilities Act

• ADA
  o Employee may develop a disability from COVID-19 or aggravate a pre-existing disability
  o Employee may be entitled to a reasonable accommodation, providing no undue hardship to employer
  o Possible accommodations
    ▪ Work remotely
    ▪ Leave
    ▪ Reduced Work Schedule
    ▪ No Travel
Unemployment Compensation

• Will workers qualify for unemployment benefits if COVID-19 causes the employer to lay off employees due to loss of production caused by virus?
  ○ Yes, if employees are otherwise eligible.
Unemployment Compensation

• Will workers qualify for unemployment benefits if COVID-19 causes employer to shut down operations?
  o Yes
    ▪ Unemployment benefit will be available for eligible individuals even if they are not actually diagnosed with COVID-19.
    ▪ The waiting period for unemployment eligibility has been waived.
Unemployment Compensation

• If an employee receives unemployment benefits will the employer’s unemployment taxes increase?
  o For contributing employers, charges during this timeframe will be mutualized.
  o Follow Ohio Revised Code Chapter 4141.
Unemployment Compensation

• Additional Resources
  o [http://jfs.ohio.gov/ouio/CoronavirusAndUI.stm](http://jfs.ohio.gov/ouio/CoronavirusAndUI.stm)
Department of Labor - Compensation

- [https://www.dol.gov/coronavirus](https://www.dol.gov/coronavirus)
- [https://www.dol.gov/agencies/whd/flsa/pandemic](https://www.dol.gov/agencies/whd/flsa/pandemic)

- Review the above for specific guidelines keeping in mind:
  - FLSA applies to hours actually worked. It does not require employers who are unable to provide work to non-exempt employees to pay them for hours employees “would have worked”.
  - Exempt, salaried employees generally must receive their full salary in ANY week which they perform work, subject to certain very limited exceptions.
Guidelines For Employee Discussions

- Can we ask employees to go home if they are showing signs of COVID-19?

  - Yes, you can send them home and request they speak with their doctor.
Guidelines For Employee Discussions

• Can employees be asked to notify their employer if they’ve come in contact with someone who has COVID-19?
  o Yes
    ▪ Visit the CDC website for guidance on how to conduct a risk assessment.
    ▪ Sample language for employees who are ill or who are reporting that they are ill:
      “We recommend you contact your doctor if you are experiencing symptoms such as fever, cough, or shortness of breath.”
    ▪ Avoid questions regarding potential disabilities or ADA.
    ▪ Confidentiality is key! Ensure no employee names or medical conditions are shared per HIPAA regulations.

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Best Practices

• Retention of employees furloughed employees
• Conduct conversations with employees at the time of layoff, for example:
  “Please plan to check in with us periodically, we will keep you updated as to any potential recall details as they are determined.”
• Due to the competitive labor market, communication will be key the when the time comes to re-hire key employees after this virus is resolved.
Questions?

Renee West, SHRM-SCP
senior manager
HR consulting services
Rea & Associates
330.308.6818
renee.west@reacpa.com
www.reacpa.com/human-resources-consulting

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