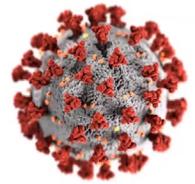




Employer's Guide to Coronavirus – Part II

(Published March 20, 2020)



For more information: www.cdc.gov/COVID19

State and Federal Assistance Due to Coronavirus

The coronavirus has created a new normal that is only expected to get worse before it gets better. Social/physical distancing to mitigate the spread of coronavirus is causing unprecedented strains on businesses, families and the economy. The Ohio Department of Health has issued [several orders closing businesses](#). Governor Mike DeWine has issued [several orders providing relief to the employers and employees](#), including unemployment insurance and small business loans. Unfortunately, assistance is not available to everyone under these programs and more businesses are likely to be ordered closed as the virus continues to spread. Statewide shutdowns are already occurring in California, Washington, New York and Pennsylvania and the U.S. Department of Homeland Security Released [Guidance on Identifying Critical Infrastructure during COVID-19](#).

President Trump, along with Congress, have passed two stimulus packages to provide some relief across the country. These efforts include covering the cost of coronavirus screenings, paid family leave, paid sick leave, and tax credits as discussed below. They are also in negotiations about a third bill to help Americans cope with the new normal until medical science can help us all once again interact as humans and travel the world without fear of an invisible enemy.

The best quote I've heard explaining our federal, state and local governments taking such extreme measures to protect us came from the president of France, Emmanuel Macron, who said,

"We are at war. We're fighting neither another army nor our own nation. But the enemy is here, invisible, untouchable, and is advancing."

Part II focuses on what government assistance is available at the state and federal level for employers, employees and the self-employed.

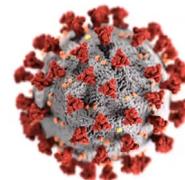
State Assistance Due to Coronavirus

(1) UNEMPLOYMENT COMPENSATION BENEFITS

- Ohio Governor Mike DeWine and the Ohio Department of Job and Family Services have:
 - suspended the normal 1-week waiting period;
 - exempted work search requirements for eligible claimants;
 - made unemployment benefits available for eligible individuals who are requested by a medical professional, local health authority, or employer to be isolated or quarantined as a consequence of COVID-19, even if they are not actually diagnosed with COVID-19;
 - stated the cost of additional benefits will be mutualized among all employers (an individual employer's experience rating will not increase for approved claims); and
 - indicated that they will waive interest and penalties for late payroll reporting.
- **Eligibility - For unemployment compensation eligibility in Ohio, the employee:**
 - must have worked a minimum of 20 weeks in covered employment during the base period (first four of the last five completed calendar quarters). This can include multiple employers and/or an alternate base period;



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- must have an average weekly wage of at least \$269 during the base period before taxes or other deductions;
- must be in “covered employment,” which means the employer was subject to the unemployment compensation payroll tax for his or her wages; and
- must receive benefits that are subject to federal and Ohio state income tax.
- **More UI info:**
 - Mass layoff notice to employees:
<http://www.odjfs.state.oh.us/forms/num/JFS00671/pdf/>
 - File for unemployment online: www.unemployment.ohio.gov
 - FAQ and more info: <http://jfs.ohio.gov/ouio/CoronavirusAndUI.stm>

(2) SUPPORT FOR SMALL BUSINESSES & NON-PROFIT ORGANIZATIONS

- The U.S. Small Business Administration (SBA) has approved the request to allow small businesses and nonprofits in Ohio to apply for low-interest, long-term loans of up to \$2 million through the SBA’s Economic Injury Disaster Loan (EIDL) program.
- Loan applications can be completed online at disasterloan.sba.gov or applicants can obtain a paper application by calling **1-800-659-2955**.
- Funds can be used to pay for fixed debts, payroll, accounts payable, and other bills that can’t be paid during the disaster’s impact. Terms up to 30 years based on borrower’s ability to repay; interest rate of 3.75% for small businesses and 2.75% for non-profits.
- Additional information on the SBA Economic Injury Disaster Loan Program is available at www.SBA.gov/Disaster or <https://www.sba.gov/disaster-assistance/coronavirus-covid-19>.

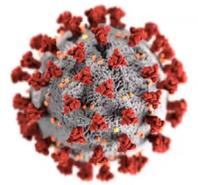
Federal Assistance Due to Coronavirus

Timeline

- March 6 - President Trump signed into law an \$8.3 billion emergency spending package to fight coronavirus that: 1) provides funds to develop a vaccine, 2) provides protective and laboratory equipment to workers who need it, and 3) aids locations hit with the virus.
- March 13 - President Trump declared a national emergency, which frees up billions of dollars to fund public health and removes restrictions on hospitals to treat more patients.
- March 14 - U.S. House passed HR 6201 by a vote of 363-40.
- March 18 - U.S. Senate passed, 90-8, and the president signed it into law [H.R. 6201 - Families First Coronavirus Response Act](#).
- March 19 - President Trump acknowledged that Treasury Secretary Mnuchin is working with Congressional leaders on bipartisan legislation to help bring additional financial relief to American companies and workers. Senate Majority Leader Mitch McConnell has been working on the CARES Act – Coronavirus Aid, Relief, and Economic Security Act What is being discussed?
 - Providing aid to the airline industry of \$50 billion
 - Providing another \$150 billion in “severely distressed sectors” such as the cruise line, hotel/hospitality and other industries so they do not disappear once the pandemic ends.



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- Creating a small business interruption loan program (\$300 Billion dollar appropriation) – the U.S. Government would provide a 100% guarantee through financial institutions on any qualifying small business.
- Providing direct payments to taxpayers from the IRS, including \$1,000 per adult, \$500 per child or \$3,000 for a family of four. This amount could be more or less depending on federal negotiations.
- Extending the tax filing deadline to July 15, 2020, which is official as of March 20, 2020.

[H.R. 6201 - Families First Coronavirus Response Act](#) became effective on March 18, 2020. The bill contains some significant benefits, such as 1) free coronavirus testing for everyone, 2) additional funding for nutritional/food programs, 3) additional funds for Medicare and Medicaid, as well as 4) enhanced unemployment insurance administrative funding to handle the significant increase in claims. But, employers need to focus on their obligations under the paid sick and family leave provisions. Therefore, questions regarding your obligations as an employer and what is available to employees are answered below.

Paid Family Leave

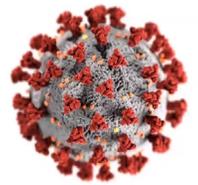
- Requires employers between 50 and 500 employees to provide ten weeks of paid leave;
- Requires paying employees two-thirds of their wages, not to exceed \$200 per day and \$10,000 in the aggregate.
- Limited to employees who are not working because the employee is caring for their child because the school is closed or child care provider is unavailable due to a public health emergency.
- Employers receive a 100% refundable payroll tax credit for the wages required to be paid.
- Federal, state and local governments are not eligible for the credit.
- The Secretary of Labor has authority to issue regulations to:
 - (1) exclude certain health care providers and emergency responders from the definition of eligible employee; and
 - (2) exempt small businesses with fewer than 50 employees if the above requirements would jeopardize the ongoing concern of the business.

Paid Sick Leave

- Requires certain employers to provide 80 hours (or 2 weeks) of fully paid leave to full-time employees (pro-rata rules would apply to part-time employees) on top of any other existing paid leave program of the employer to cover employees not working for the following reasons. The employee:
 - (1) is subject to a Federal, State, or local quarantine or isolation order related to coronavirus;
 - (2) has been advised by a health care provider to self-quarantine due to coronavirus;
 - (3) is experiencing symptoms of coronavirus;
 - (4) is caring for an individual who is subject to an order described in (1) or has been advised as described in (2);



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- (5) is caring for a child because the school is closed or child care provider is unavailable due to coronavirus; or
- (6) is experiencing a similar conditions specified by Secretary of HHS.
- Requires employers to pay employees their full wages, not to exceed \$511 per day and \$5,110 in the aggregate, for a use described in (1), (2), or (3) above.
- Requires employers to pay employees two-thirds of their wages, not to exceed \$200 per day and \$2,000 in the aggregate, for a use described in (4), (5), or (6) above.
- Employers receive a 100% refundable payroll tax credit on the wages required to be paid.
- Applies to all public sector employers and those private sector employers with fewer than 500 employees.
- Tax credits only apply to private sector employers with fewer than 500 employees.
- The Secretary of Labor has authority to issue regulations to exempt small businesses with fewer than 50 employees if the above requirements would jeopardize the ongoing concern of the business.
- Paid sick leave benefits expire December 31, 2020.

Small Business Exceptions and Self-Employed

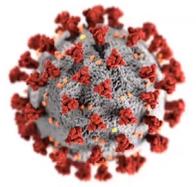
- Employers with fewer than 50 workers can apply for an exemption from providing paid family and medical leave and paid sick leave if it "would jeopardize the viability of the business." HR professionals should work with their counsel to determine what documentation to provide if they choose to submit an application.
- Gig-workers and other self-employed workers will be eligible for a tax credit to cover the benefits.
- Tax credits will be administered by the IRS and be creditable against employer-side payroll tax liability, with excess refunded to the employer.

The reality is that very little is available for self-employed individuals other than state and federal safety net programs. This is especially true for those small businesses in the restaurant/bar, hospitality, daycare, cosmetology/barbershop businesses that have been directed to close for the foreseeable future to help mitigate the coronavirus spreading. That is why the third stimulus bill is so critical for small businesses across the state and the nation. But, the long-term question may be how to shift such dislocated workers from one occupation to another that is designated as part of the [essential critical infrastructure workforce](#) as all indications point to the COVID-10 pandemic being with us for several months to come.

Prepared by Tony Fiore, an attorney with [Keqler Brown Hill + Ritter](#) and the Director of Government Affairs for the Ohio SHRM State Council. Connect with Tony by e-mail: afiore@keqlerbrown.com; LinkedIn: [acfiore](#); Twitter: [@TonyFioreEsg](#).



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Additional info can be found by clicking on the following links:

- **ODH** – www.coronavirus.ohio.gov or 1-800-427-5634 (1-833-4-ASK-ODH) [Top 10 Things You Can Do to Prepare for COVID-19 + Checklist for Business/Employers](#)
- **CDC** – [Interim Guidance for Business and Employers](#)
- **SHRM** – [Keep Calm and Wash Your Hands](#) and [3 Ways to Keep Your Workplace Clean During Coronavirus Scare](#)
- **OSHA** – [OSHA Injury and Illness Recordkeeping and Reporting Requirements](#)
- **US Dept. of State** – [Interactive Travel Advisory Map](#)
- **USDOL** – [Coronavirus Resources](#)
- **EEOC** – [Pandemic Preparedness in the Workplace](#) and [What You Should Know About the ADA, the Rehabilitation Act, and COVID-19](#)
- **Homeland Security** – [Identifying Critical Infrastructure During COVID-19](#)
- **Kegler Brown Hill + Ritter**- [COVID-19 Resource Center](#)