Family Law Alert: COVID-19 and Alimony: How Will COVID-19 Impact Your Support Payments?

Millions of Americans are suddenly finding themselves unemployed or earning less income due to the COVID-19 pandemic. If you are paying alimony or child support, you may wonder whether a recent change in your employment status or income will impact your ability to make support payments. And if so, you may be asking whether that entitles you to a downward modification of your support obligations. On the other hand, if you are someone who is receiving alimony and/or child support, you may be worried about whether those payments will continue in the upcoming weeks or months.

New Jersey statutes provide some guidance on what payors and payees should expect. Under the current law, a payor must be involuntarily unemployed or receiving reduced income for at least 90 days before a court will consider a reduction in alimony. However, the court does have the discretion to make any modification retroactive to the date the payor's income was reduced or stopped. With respect to child support, there is no clear-cut rule for measuring whether a change in circumstances has occurred, or whether enough time has passed to file a motion requesting that the support obligation be reduced. Unlike alimony, however, reductions in child support can be made retroactive only to the filing date of the payor's motion – no earlier. It will be interesting to see if these statutory restrictions will be relaxed in the coming weeks based on the unprecedented loss in jobs and income. In any event, if a payor demonstrates a bona fide, involuntary reduction or loss of income, there are a number of different remedies available to courts, including but not limited to: suspending support entirely, reducing the amount of support owed, ordering the sale of assets to cover support, requiring periodic reviews of the payor's circumstances, etc. This enables courts to balance the restricted resources of the payor with the continued needs of the payee.

In sum, the wide-ranging authority of family courts in New Jersey allows for flexibility in this unprecedented environment. But timing is important; it can affect the scope of relief available to you through the courts. If you are concerned about your support payments (whether you are paying support or receiving it), we are available to assist and answer any questions you may have. Courts remain open to hear applications (albeit remotely) and there is always the option to negotiate a solution with your ex-spouse or partner by using alternative dispute resolution options, including skilled mediators that are conducting sessions remotely.