Labor and Employment Alert: COVID-19: Getting Employers Through These Uncertain Times

We hear you, employers, and we are here to get your business and workforce through Coronavirus (COVID-19).

For New Jersey-based employers, there has long been the ability to do temporary layoffs/furloughs of employees with a return to work date of up to eight weeks, which would generally render the affected employees eligible for unemployment benefits. And the New Jersey Earned Sick Leave Act already permits employees who are not able to work because of the closure of the workplace, or the school or place of care of the child of the employee, by order of a public official due to an epidemic or other public health emergency to use their paid leave under this law.

We expect a few new laws/amendments to existing laws from the State of New Jersey and the Federal government in the near future (as early as this week). For New Jersey employers, we expect several amendments to existing leave and benefits laws through the creation of the "Epidemic and Emergency Relief Employment Fund." We will advise you of the specific provisions as soon as the law is adopted but in its present form, the amendments would:

- Create a $6 million fund known as the Epidemic and Emergency Relief Employment Fund
- Amend the Earned Sick Leave Law (paid leave law applicable to all employers) to allow employees who have accrued leave under the New Jersey Earned Sick Leave Act and who are not able to work because of:
    - The issuance by a public health authority of a determination, including by mandatory quarantine as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others; or
    - The recommendation of a physician or public health authority that the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others.
- Amend the Family Leave Act (unpaid leave law in New Jersey applicable to employers with 30 or more employees) to include within the meaning of a "serious health condition" an illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease which requires:
    - In-home care or treatment due to: the closure of the school or place of care of a child of the employee, by order of a public official due to the epidemic or other public health emergency; or
    - The issuance by a public health authority of a determination, including by mandatory quarantine as a result of illness caused by an epidemic of a communicable disease or known or suspected exposure to the communicable disease because the presence in the community of a member of the employee's family in need of care by the employee, would jeopardize the health of others; or
    - The recommendation of a physician or public health authority that a member of the employee's family in need of care by the employee voluntarily undergo self-quarantine as a result of suspected exposure to a communicable disease because the presence in the community of that member of the employee's family in need of care by the employee, would jeopardize the health of others.
- Amend the Temporary Disability Benefits Law/Family Leave Insurance (partial income replacement law applicable to all employers) to allow as a compensable sickness an illness meeting the amended definition set forth above relating to "serious health condition." Note, the New Jersey Paid Family Leave Law, which is included within the Temporary Disability

Benefits Law.

- Allow independent contractors to make claims for lost income from the new fund.

In the case of Earned Sick Leave usage or Temporary Disability/Family Leave Insurance usage due to any of these new epidemic reasons, the employee would be required to report the leave to the NJ DOL. In the case of Earned Sick Leave usage for these reasons, the employer can be reimbursed by the State of New Jersey for the employee's lost hours. In the case of the expansion of the compensable sickness under the Temporary Disability Benefits Law, these claims would not be considered when calculating an employer's contributions to the State disability fund.

Do not be shy! If you have any questions about this alert, or any other labor and employment issue, please contact:

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