

COVID-19: Initial Considerations for Workplace Safety & Recovery Planning

Human Resources Basics: Items for Discussion with Your Lawyer

June 17, 2020



Stan Sterna, Esq. | Vice President

Joseph Wolfe | Risk Management Consultant



Disclaimer

This document has been provided as an informational resource for Aon clients and business partners. It is intended to provide general guidance on potential exposures and is not intended to provide medical or legal advice or address medical or legal concerns or specific risk circumstances. Due to the dynamic nature of infectious diseases, Aon cannot be held liable for the guidance provided. We strongly encourage visitors to seek additional legal, safety, medical and epidemiologic information from credible sources such as legal counsel, the Centers for Disease Control and Prevention and World Health Organization. As regards insurance coverage questions, whether coverage applies, or a policy will respond, to any risk or circumstance is subject to the specific terms and conditions of the policies and contracts at issue and underwriter determination.

While care has been taken in the production of this document and the information contained within it has been obtained from sources that Aon believes to be reliable, Aon does not warrant, represent or guarantee the accuracy, adequacy, completeness or fitness for any purpose of the report or any part of it and can accept no liability for any loss incurred in any way by any person who may rely on it. Any recipient shall be responsible for the use to which it puts this document. This document has been compiled using information available to us up to its date of publication.

All descriptions, summaries or highlights of coverage are for general informational purposes only and do not amend, alter or modify the actual terms or conditions of any insurance policy. Coverage is governed only by the terms and conditions of the relevant policy.





Human Resources Policies

1. Returning Furloughed Employees
2. Leave and Time Off
3. Disability
4. Benefits
5. Compensation



Returning Furloughed Employees

- Phased approach based on productivity and service needs
 - Return employees to their correct levels and benefits
 - Be empathetic and build trust
 - Inform about -
 - Changes in work protocols, policies and employee benefits
 - Available employee wellness programs, especially for mental health and emotional support



Leave and Time Off

- Examine existing policies as applied to requests for leave and time off since shelter in place orders began
- Review applicable COVID-19 laws, regulations, and guidance issued by federal, state and local governments
- Review with legal counsel and update policies as needed
- Provide training – both orally and in writing



Leave and Time Off

- COVID-19 laws, regulations and guidance -
 - Families First Coronavirus Response Act (FFCRA)
 - ♦ Applies to leave taken 4/1/20 to 12/31/20
 - ♦ Applies to all firms with fewer than 500 employees
 - ♦ Contains *limited* exemptions applicable to small businesses with fewer than 50 employees
 - Emergency Paid Sick Leave Act
 - » Provides up to 2 weeks of paid sick leave when unable to work due to quarantine or experiencing COVID-19 symptoms and seeking a medical diagnosis
 - Emergency Family and Medical Leave Expansion Act
 - » Provides paid leave when leave exceeds 10 days due to COVID related child care needs



Leave and Time Off

COVID-19 laws, regulations and guidance –

- State and local requirements
 - States include California, Colorado, New York, New Jersey
 - Seattle and various California cities, including Los Angeles, San Francisco, San Jose

3



Disability

- See current EEOC guidance regarding compliance with Americans with Disabilities Act and Rehabilitation Act
- Review state and local disability and anti-discrimination laws



Employee Benefits

- Review application of CARES Act provisions –
 - Changes in allowed hardship withdrawals, loans, and repayment requirements under qualified retirement plans
 - Plan sponsors should promptly review options with legal counsel
 - Provides expanded coverage under group health plans
- IRC § 125 Cafeteria plans
 - IRC Notice 2020-29 details allowed benefit election changes
 - IRC Notice 2020-33 increases to \$550 allowed carryover amount in health care Flexible Spending Account (FSA)



Employee Benefits

Health care insurance coverage

- Affordable Care Act (ACA) provisions and furloughed or “on leave” employees
 - Application of excise taxes and penalties for failure to provide affordable health care insurance
 - Requirements to provide COBRA coverage
- Well being programs
- Coverage for virtual care
- Waivers of deductibles, copays or coinsurance for COVID-19 testing or treatment
- Direct employees to insurer website



Employee Benefits

- Disability insurance coverage
 - Short and long term disability policies
 - Review application of elimination periods and definition of disability
 - Direct employees to insurer website
- Life insurance and long term care coverage
 - Review existing coverage, elimination periods and definition of disability under LTC policies
 - Direct employees to insurer website
- Workers compensation insurance coverage
 - Some state legislatures have proposed bills expanding coverage for disability or death due to COVID-19

5



Compensation

- Review existing compensation policies, job descriptions, and performance evaluation processes
- Consult with human resource personnel and legal counsel regarding necessary updates and revisions
- Training – both oral and written
- Consider need for written acknowledgement of receipt of updated information on benefits and compensation

Resources

Government Resources

DOL Guidance:

[FFCRA Questions and Answers](#)

EEOC Guidance:

[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)

HHS Guidance:

[Return to Work \(Employee\)](#)

Employee Benefits Resources

CNA

[Reopening the Workplace: Employment Law Considerations](#)

Society for Human Resource Management (SHRM)

[States and Cities Mandate Paid Sick Leave as Pandemic Continues](#)

America's Health Insurance Plans (AHIP)

[Health Insurance Providers Respond to Coronavirus](#)

National Conference of State Legislatures

[COVID-19: Workers' Compensation](#)

AICPA Coronavirus Resource Center

Resources

Aon Resources

[AICPA Member Insurance Programs COVID-19 Resource Center](#)

[Aon COVID-19 Business Recovery Decision-Making Toolkit](#)

[Aon COVID-19 Insights and Resources](#)

Law Firm Resources

BakerHostetler

[FAQ's: COVID-19 Employee Benefits Updates \(6/6/20\)](#)

Little

[Conducting "Virtual" Workplace Investigations: Practical Suggestions for the Human Resources Professional](#)

Ogletree Deakins

[Coronavirus Resource Center](#)

Jackson Lewis

[COVID-19 Resource Center](#)

Ford Harrison LLP

[Coronavirus Task Force](#)

Thank you

Stay Safe

