



CLIENT ALERT

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LABOR AND EMPLOYMENT

MICHIGAN AND OHIO HAVE ISSUED NEW UNEMPLOYMENT RULES RELATING TO COVID-19

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On March 16, 2020, Michigan's Governor issued Executive Order 2020-10 (COVID-19) available [here](#). The Michigan Executive Order provides that, effective immediately and through April 14, 2020 at 11:59 pm, Michigan employees will be permitted to collect unemployment insurance benefits for certain COVID-19 related layoffs or absences.

- Employees will be permitted to collect unemployment if:
 - They are self-isolating or self-quarantining as a result of COVID-19 "due to being immunocompromised, displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19, or a family care responsibility as a result of a governmental directive" (e.g. K-12 public school closure); or
 - They are deemed laid off or unemployed as a result of COVID-19 "because of self-isolation or self-quarantine . . . due to being immunocompromised, displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19, or a family care responsibility as a result of a governmental directive."
- Employees may register for benefits at the Michigan UIA [webpage](#) or by calling 1-866-500-0017 or TTY 1-866-366-0004. A useful fact sheet regarding unemployment benefits is available [here](#).
- The employer of a covered employee who makes a claim must seek a registration and work search waiver from the Unemployment Insurance Agency.
- Unemployment benefits may not issue if an otherwise covered employee is "already on sick leave or receives a disability benefit."
- Employees must file claims within 28 days of the last day worked.
- Unemployment for affected persons will be available for up to 26 weeks.
- Employers will not be charged for unemployment benefits if their employees become unemployed because of an executive order requiring them to close or limit operations.

Ohio Executive Order 2020-01D was adopted March 9, 2020, and is available [here](#).

Governor DeWine issued Executive Order 2020-01D, declaring a state of emergency in Ohio to protect the well-being of Ohioans from COVID-19. In addition, unemployment benefit insurance qualifications have been relaxed as follows.

- Employees will be permitted to collect unemployment if:
 - They are required 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.
 - The employer lays off the employee due to the loss of production caused by COVID-19.
 - The employee is in mandatory quarantine because of suspicion of having COVID-19.
- All other eligibility requirements remain in place, which would include the requirement that the employee work for the relevant time period. Also benefits may not be available if the employee is already on sick leave or receives a disability benefit.
- Unlike the Michigan law, Ohio's Executive Order does not provide unemployment for those employees who self-isolation or self-quarantine if they are asymptomatic. The reason is because the individual-not the employer-is choosing not to work and, therefore, would not be eligible. However, the facts of each circumstance are important. If the employer allowed this individual to telework, they would not qualify for benefits because they would not be unemployed. If the employer required the individual to stay home but did not offer telework, the individual might be eligible for benefits if they met the monetary and weekly eligibility criteria.
- In addition, benefits will be available immediately as the normal 1-week waiting period has been waived.
- For tipped workers, the availability of benefits will depend on how the employer reports tipped wages. If the employer reported tips as part of the employee's wage, it would be reflected on their tax reporting and therefore the UI benefit would be based on wage with tips. If the employer did not include tips in the wage, the employee will need to file an affidavit with their tipped wages for Ohio Job and Family Services to review.
- Employees may file for unemployment [here](#) or by calling 1-877-644-6562 or TTY 1-614-387-8408.

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- In terms of costs to employers, for contributory employers, charges during Ohio's emergency declaration period will be mutualized, meaning they will be charged out of the mutual account. Reimbursing employers will follow existing charging requirements under Ohio Revised Code Chapter 4141.
- If COVID-19 creates a situation where employers submit their quarterly reports and/or payments late, penalties will be waived.
- It is also worth noting that, there is a notice under the Ohio Unemployment Compensation Law that employers inform Ohio Department of Job and Family Services of a layoff or separation of 50 or more employees because of a lack of work within any seven-day period. The employer must provide notice at least three working days before the first day of the separation or lay off. R.C. 4141.28(C). Understandably, the three-day notice may not be doable, but employers should try to give the agency as much of a heads up as possible so it can more easily process those claims for payment without delay.

The federal Families First Coronavirus Response Act (H.R. 6201) was passed in the U.S. House of Representatives on March 14, 2020. The bill is not yet binding legislation. We are monitoring the progress of this bill and will provide updates when a new law is enacted.

This client alert is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the field of labor and employment law. The foregoing content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions relating to any of the topics covered.

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