

COVID-19 Q&A WEBINAR

OUR MISSION IS
TO SUPPORT YOURS



TODAY'S OBJECTIVES

- Introductions
- Current Environment
- Frequently Asked Questions
- Open Questions

TODAY'S PRESENTERS



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CURRENT ENVIRONMENT

SCHOOL CLOSURES

Employees managing personal and professional change

HEALTH & BENEFITS

Concerns about offering employee benefits to employees in current environment

HIGH LEVELS OF UNCERTAINTY AND ANXIETY

Fear of unknown, constant uncertainty

BUSINESS DISRUPTION

Redesigning how work gets done; managing in new norm of uncertainty, layoffs, furloughs

REMOTE WORK

Unplanned and expedited work from home arrangements

NEW LEGISLATION

The government is rapidly introducing new federal legislation

GLOBAL CRISIS

Uncertainty at all levels



KEY THEMES FROM YOUR QUESTIONS:

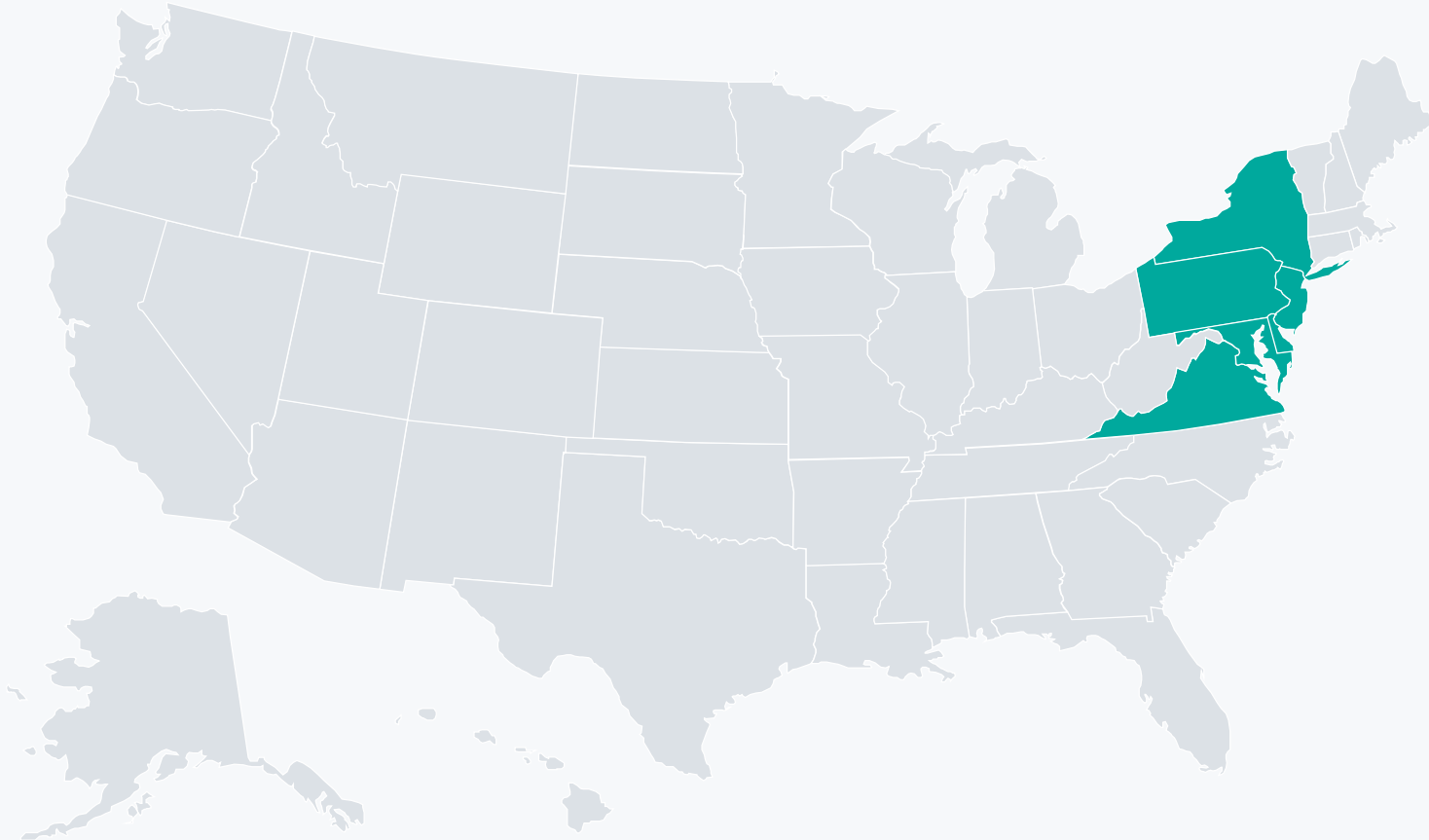
- Legal
- Pay and Benefits
- Communication

OVERVIEW OF KEY LEGAL STATUTES:

- Governor “Stay At Home” Orders
- Families First Coronavirus Response Act (FFCRA)
- Sick Leave Ordinances
- Warn Acts

GOVERNOR ORDERS

PA, NJ, DE, MD, NY, VA



FAMILIES FIRST CORONAVIRUS RESPONSE ACT

- Goes into effect April 1, 2020
- Applies to leave taken between April 1, 2020, and December 31, 2020.
- Administered and enforced by Department of Labor's (Department) Wage and Hour Division (WHD)
- Interpreted consistent with FLSA/FMLA

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Emergency Paid Sick Leave Act

- *Two weeks (up to 80 hours) of **paid sick time** at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or*
- *Two weeks (up to 80 hours) of **paid sick time** at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19; and*

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Emergency Family and Medical Leave Expansion Act

- *Up to an additional 10 weeks of paid family leave at two-thirds the employee's regular rate of pay* where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Covered Employers:

- Certain public employers and private employers with fewer than 500 employees
- Calculate using “snapshot” approach
- Include:
 - Employees on leave
 - Temporary employees who are “jointly-employed” (per DOL test)
 - Day laborers
- Joint employment/integrated employer test
- Small business (fewer than 50 employees) exemption from child care leave if would jeopardize the viability of the business as a going concern.

Eligible Employees:

Emergency Paid Sick Leave Act

All employees

Emergency Family and Medical Leave Expansion Act

Employees employed for at least 30 days

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Duration of Leave:

Quarantine related leave:

- FT employee eligible for 80 hours of leave
- PT employee eligible for the number of hours of leave that the employee works on average over a two-week period.

Child care related leave:

- FT employee eligible for up to 12 weeks of leave (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week
- PT employee eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Calculation of Pay:

For own quarantine-related leave:

Regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

To care for another in quarantine:

2/3 regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

Child care:

2/3 regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period)

STATE AND LOCAL SICK LEAVE LAWS

Philadelphia:

Applies to all employees who work within city limits at least 40 hours a year. ... Employees will earn sick leave at the rate of 1 hour for every 40 hours worked during a year. Employees can earn up to 40 hours, or 5 days, of sick leave during a year

Pittsburgh:

Employers with 15+ employees must provide paid sick leave, up to 40 hours per year, accrued at a rate of 1 hour of leave for every 35 hours worked.

New Jersey:

Employees have the right to accrue and use up to 40 hours of paid sick leave (PSL) in any period of 12 consecutive months

WARN ACTS

Federal WARN Act

Philadelphia WARN Act

COMMON QUESTIONS:

PAY/COMPENSATION

- Can I reduce pay or hours reduction? Do I have to pay employees? Do I have to pay severance?

FMLA/FFCRA/SICK LEAVE/PTO

- How do these intersect? Do I have to provide leave? Do I have to provide paid leave? Do I have to pay out PTO?

BENEFITS

- Can my employees keep their benefits? Who pays the premiums? When must I issue a COBRA notice?

UNEMPLOYMENT COMPENSATION

- Who is eligible?

WORKER'S COMPENSATION

- Can someone file a WC claim for getting sick with COVID19 at work?

THREE ALTERNATIVES

Employer's business continuity strategies may include a combination of the alternatives listed below. How we address eligibility for FFCRA/FMLA, pay and benefits may vary based on each scenario:

1. Maintain employment but with reduced hours and/or reduced pay
2. Furlough – temporary “lay-off” with intention that employee will return within six months
3. Lay-off – permanent severing of employment relationship due to lack of work

MAINTAIN EMPLOYEES BUT REDUCE HOURS

LEGAL

- Can I reduce employee hours and/or compensation?
 - Exempt
 - Non-Exempt
 - Union Considerations
 - Unemployment

PAY & BENEFITS

- Can the employee apply for unemployment if hours reduced?
- Will the employee be eligible for FMLA, FFCRA or other leave benefits?

HEALTH BENEFITS

- Will the employee keep his or her health and other company benefits?

FURLOUGH

Furlough – temporary “lay-off” with intention that employee will return within six months

LEGAL

- What notice, if any, must I give the employee?

PAY & BENEFITS

- Can the employee apply for unemployment?
- Must I pay out accrued PTO/vacation?
- Must I pay out accrued sick leave?
- Will the employee be eligible for FMLA, FFCRA or other leave benefits?

HEALTH BENEFITS

- Will the employee keep his or her health and other company benefits?
- Must I provide COBRA notice?

LAY-OFF

Lay-off – permanent severing of employment relationship due to lack of work

LEGAL

- What notice, if any, must I give the employee?

PAY & BENEFITS

- Can the employee apply for unemployment?
- Must I pay out accrued PTO/vacation?
- Must I pay out accrued sick leave?
- Will the employee be eligible for FMLA, FFCRA or other leave benefits?

HEALTH BENEFITS

- Will the employee keep his or her health and other company benefits?
- Must I provide COBRA notice?

ADDITIONAL BENEFITS CONSIDERATIONS

- Will my insurance carrier cover the cost of COVID-19 care? Self-Insured?
- Are any insurance carriers changing their requirements regarding paying premiums late? In other words, will they drop our coverage if we don't pay our monthly premiums by the end of the 1 month grace period?
- Does tax credits in the FFCRA include Employer's Cost to Maintain Group Health Plan?
- How does COVID-19 and employees leave affect ACA employer mandate obligations?

QUESTIONS AROUND COMMUNICATION

- How do we communicate the new FMLA information to employees?
An Email, during a video conferencing town hall?
 - DOL Model Noticed Released
 - Communication strategy may include all of the above
 - Note: throughout this situation, build a strategy that includes daily, weekly, monthly communication touch points
 - Train you manages on communication strategy
- Communication requirements to those who have tested positive for COVID-19 and to their coworkers:
 - Duty to notify those who work in close proximity of reported case
 - Duty to protect private info – do not share name(s) of individuals
- Info to share with Staff
 - Regular updates on temporary workplace arrangements (remote, FMLA, etc)
 - Develop an FAQ sheet - update regularly
 - Include point person(s) for questions/concerns



OPEN QUESTIONS?

THANK YOU

OTHER QUESTIONS

- Are we required to pay employees if they choose not to come to work due to their own level of susceptibility-age or health issue?
- How does the PA sick leave and Families First Act sick payment apply? Which should come first? Does it matter?
- Are we required to allow people to use other benefit time during this outbreak?
- How are small employers are expected to pay for all the leave
- Please discuss how this all relates to a community health center, which receives funding from state and federal sources.
- Bill Requiring Paid Leave - Would this bill be in addition to employers who are already providing two weeks of sick leave?
- Employer options for benefit continuation – employer contribution? Employee contribution?
- Bill Requiring Paid Leave - Would this bill be in addition to employers who are already providing two weeks of sick leave?
- What about 19 requirements?