

## Coronavirus and the Workplace: Benefits and Assistance for Employees and Employers

March 17, 2020

As the coronavirus pandemic continues to evolve and government and health officials place restrictions on business operations, businesses must face difficult decisions concerning employee layoffs, reductions in work hours and business shutdowns. Here are some things to consider in order to mitigate the consequences of this unprecedented crisis on your employees and your business.

### Leave Benefits for Workers.

Some employers may have already allowed employees to access paid leave benefits such as vacation or personal days on an accelerated basis. Below are some additional paid and unpaid benefit programs available to eligible employees:

- If you are a New York City employer with five or more employees, your employees already have access to up to 40 hours of paid leave under the New York City Safe and Sick Leave Law. Employers with fewer than five employees must provide unpaid Safe/Sick Leave. Safe/Sick Leave can apply if you have an employee that needs to take time off from work due to his/her own illness or to care for a sick family member. Additionally, Safe/Sick Leave can apply in the event of a business closure due to a public health emergency or to care for a child whose school or childcare provider closed due to a public health emergency.
- All New York State employers are required to provide workers with up to 10 weeks of paid leave to care for a family member with a serious health condition. This leave may not be used for an employee's own health condition. In 2020, employees taking Paid Family Leave will receive 60% of their average weekly wage, up to a cap of 60% of the current Statewide Average Weekly Wage of \$1,401.17. The maximum weekly benefit for 2020 is \$840.70.
- For employers with 50 or more employees, the Family and Medical Leave Act provides for up to 12 weeks of unpaid leave if an employee has a serious health

condition or is caring for a family member with a serious health condition. To be eligible, an employee must have worked for the employer for one year.

- Under New York State and New York City laws that prohibit disability discrimination, employers may also be required to provide a sick employee with unpaid leave as a reasonable accommodation.

### **New York State Shared Work Program: The Layoff Alternative.**

The New York State Shared Work Program gives employers an alternative to laying off workers during business downturns by allowing them to work a reduced work schedule and collect partial Unemployment Insurance benefits for up to 26 weeks. Instead of cutting staff, eligible employers can reduce the number of hours of all employees or just a certain group. The reduction in employees' hours and the corresponding reduction in wages can be no less than 20% and no more than 60%. Other eligibility requirements include the employer's agreement not to reduce or eliminate "fringe" benefits unless they are reduced or eliminated for the entire workforce. Employers must design a Shared Work Plan and submit it to the New York State Department of Labor for approval. According to current information, employers who apply online may be approved in as little as two days. Employers who apply by mail should expect to wait at least three weeks for approval.

For more information, please see: <https://www.labor.ny.gov/ui/employerinfo/shared-work-program.shtm>.

### **New York City Small Business Loans and Payroll Assistance.**

New York City announced that it will provide relief for small businesses impacted by the coronavirus. Businesses with fewer than 100 employees who have seen sales decreases of 25% or more will be eligible for zero interest loans of up to \$75,000 to help mitigate losses in profit.

The City is also offering small businesses with fewer than five employees a grant to cover 40% of payroll costs for two months to help retain employees.

### **Understanding the Options.**

It is important during these challenging times to understand and consider the options that may be available to your business and your employees. If you have any questions regarding these important considerations or other employment matters, please contact Felicia Ennis, any of the undersigned, or your regular Warshaw Burstein attorney.

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