CLIENT ALERTS & INSIGHTS

U.S. Department of Labor Offers Guidance on COVID-19 Wage Related Issues

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Benesch Law's Labor and Employment group recently wrote on general labor and employment related concerns relative to COVID-19 in an article published on March 6, 2020. In just the last seven days, thousands of additional cases have been announced, and the WHO officially termed the COVID-19 outbreak a "pandemic," and the CDC agrees. Moreover, flights from Europe will be extremely limited over the next month, a number of governors have taken steps to ban "mass meetings," religious services have in some areas been indefinitely suspended, the NBA, MLB, the NHL, MLS, and the NCAA have canceled or indefinitely suspended their seasons. Just today, President Trump announced a national emergency over the COVID-19 outbreak.

Given the rapidly developing nature of the COVID-19 outbreak and its effect on our global society, including global markets and the employers who drive them, the Department of Labor recently offered guidance on dealing with potential wage-related issues that employers may soon face, if they haven't already. A few of the highlights include:

Volunteer Workers

If your business experiences a shortage of workers and is looking to volunteer help, be aware that covered, non-exempt workers working for private, for-profit employers have to be paid at least the minimum wage and cannot truly "volunteer" their services.

Termination of Employment

If you choose to lay off members of your workforce or to terminate employees in the face of economic headwinds, be mindful of your state's wage payment laws, some of which may require immediate payment of all wages, including fringe benefits like accrued but unused vacation time.

Hours Worked/Hours Paid

If an employer is unable to provide work to non-exempt employees, federal labor law does not require the employer to pay the non-exempt employee for time spent not working. Actual hours worked, of course, must be compensated. Rules for compensating exempt employees are not as straightforward and should be discussed with counsel prior to implementing any pay reduction policies.

Employees Under Quarantine

Consistent with our March 6th alert, the Department of Labor recommends that employers be accommodating and flexible with workers impacted by government or employer imposed quarantines. Employers are encouraged to offer alternative work arrangements, such as teleworking, and additional paid time off opportunities.

Changing Job Descriptions

Federal labor law does not limit the type of work employees over the age of 18 may be required to perform, regardless of what the employee's job description may say. In the event you believe employees may be required to perform tasks not normally associated with their work, work closely with human resources and consult your union contract before implementing any changes.

OSHA Standards and Teleworking

OSHA does not regulate "telework" in home offices. However, if an employer is required to keep records of work-related injuries and illnesses, those employers are required to keep such records related to home office injuries and illnesses. And, an employee having to stay away from work because of contracting COVID-19 may be a recordable lost-time injury and a compensable under a state's workers' compensation laws when an employee's work requires contact with individuals with the disease.

As we indicated on March 6th, Benesch Law, including Benesch's Labor & Employment Practice Group, stands ready to assist with any questions as we closely follow COVID-19 developments and support our clients' response efforts in the labor and employment and other relevant areas.

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Benesch, including Benesch's Labor & Employment Practice Group, stands ready to assist with any questions as we closely follow COVID-19 developments and support our clients' response efforts in all areas of their business. For more information relating to COVID-19, please see:

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