

3/16/20 | Ohio Expands Access to Unemployment Benefits in COVID-19 Cases

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On March 15, 2020, Governor Mike DeWine issued an executive order expanding unemployment benefits for employees whose workplaces are shutdown or who are quarantined as a result of COVID-19. The Ohio Department of Jobs and Family Services (ODJFS) released a list of questions and answers on this expanded availability. Key information for employers is below.

WILL WORKERS QUALIFY FOR UNEMPLOYMENT BENEFITS IF COVID-19 CAUSES AN EMPLOYER TO SHUT DOWN OPERATIONS?

Yes. Unemployment benefits will be available for eligible individuals who are requested 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. In addition, the waiting period for eligible employees to receive unemployment benefits will be waived (normally, employees must wait one week before receiving benefits). Further, eligible employees can receive unemployment benefits if they are laid-off due to the loss of production caused by COVID-19. An "eligible" employee is one who meets the monetary and weekly eligibility criteria set forth in the Unemployment Compensation Law.

IF AN EMPLOYEE RECEIVES UNEMPLOYMENT BENEFITS AS A RESULT OF A COVID-19-RELATED BUSINESS SHUTDOWN, WILL THE EMPLOYER'S UNEMPLOYMENT TAXES INCREASE?

There are two types of employers for purposes of the Unemployment Compensation Law – contributory and reimbursing.

A contributory employer pays the federal tax used to pay the administrative costs of the unemployment program. As a contributory employer, tax costs are limited to the highest rate provided in the law multiplied by the taxable wages paid by the organization. For contributory employers, charges during Ohio's emergency declaration period will be mutualized; in other words, the benefits will be charged to the mutualized account as opposed to the account of the individual employer who shut down or laid off employees. The mutualized account is funded by a tax collected at a uniform rate from all contributory employees. In addition, ODJFS will waive penalties for late reporting and payments during Ohio's emergency declaration period.

A non-profit employer has the option of being a contributory employer or a reimbursing employer. Reimbursing employers become liable for payments in lieu of contributions, which means they are required to reimburse the State for unemployment benefit charges on a dollar-for-dollar basis.

IF AN ASYMPTOMATIC EMPLOYEE IMPOSES A SELF-QUARANTINE BECAUSE OF COVID-19, WILL HE OR SHE BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS?

In most cases, no. As ODJFS explains, unemployment benefits are available to individuals who are totally or partially unemployed due to no fault of their own. In this example, the individual – not the employer – is choosing not to work and, therefore, would be ineligible. However, if the employer allowed this individual to telework, he or she would not qualify for benefits because he or she 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 he or she met the monetary and weekly eligibility criteria. By

contrast, an employee in mandatory quarantine (whether imposed by a public health authority or the employer) is eligible for unemployment benefits.

Contact your Vorys lawyer if you have questions about managing employee benefits and other employment issues during the COVID-19 pandemic.

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VORYS COVID-19 TASK FORCE

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive Coronavirus Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.