

Tackling COVID-19 in the Workplace: Expanded Unemployment Eligibility and Benefits under the CARES Act

Health experts have explained the need to “flatten the curve” through mandatory and voluntary social isolation. These painful yet necessary efforts to fight the COVID-19 pandemic have sparked a crisis in employment which is on course to surpass even the worst days of the 2008-09 financial crisis. Nationwide, millions have been laid off within a very short period. According to the Bureau of Labor Statistics, 3.3 million Americans filed for unemployment the week of March 16, a tremendous jump from the previous week’s 282,000 unemployment claims, and an overall record in U.S. history. <https://www.dol.gov/ui/data.pdf>

Unemployment claims in Missouri and Illinois have followed this national trend, with unemployment claims in Missouri jumping tenfold to 42,207 from approximately 4,000 on the prior week, and claims in Illinois also jumping over tenfold to 114,663 from 10,870 on the prior week. State unemployment offices are struggling to meet this sudden administrative burden, with reports of crashing websites and swamped phone lines.

https://www.stltoday.com/business/local/mirroring-nation-missouri-illinois-unemployment-claims-skyrocket/article_c64c4154-4209-527c-abd5-f46aab206c13.html. Given the processing hurdles, some experts are cautioning that even these dramatically elevated unemployment claims figures may be an undercount. <https://www.politico.com/news/2020/03/26/record-breaking-unemployment-claims-may-be-vast-undercount-150417>.

Fortunately, policymakers were quick to grasp the challenges COVID-19 presents to employers and employees. In recent days, the Federal Reserve has promised “unlimited” support for the U.S. economy. On March 27, the third and largest coronavirus relief bill to date – The Coronavirus Aid, Relief, and Economic Security Act (aka “CARES” Act) – was entered into law.

<https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>. The crux of the CARES Act lies in its provisions addressing the employment crisis. Title I, the “Keeping American Workers Paid and Employed Act,” is specifically designed to help employers keep more workers employed to at least a 75% of “norm” level. For laid-off employees, Title II, the “Assistance for American Workers, Families,

and Businesses Act,” includes a \$260 billion expansion of unemployment insurance benefits:

- The Act will extend the standard period of jobless insurance eligibility provided under existing state law by 13 weeks, up to a period not to exceed 39 weeks. CARES Act, Sec. 2102(b)(2).
- The Act will boost unemployment benefits by \$600/month, on top of state benefits, for a period of up to four months. Thereafter, standard state benefits would apply. CARES Act, Sec. 2104(b)(1)(A)—(B).
- The Act encompasses far more workers than are usually eligible for unemployment benefits, including furloughed employees, the self-employed, freelancers, gig economy workers, and part-time workers. It also makes eligible those who voluntarily quit their job or are otherwise unable to work “as a direct result of COVID-19” for a variety of coronavirus-related reasons. CARES Act, Sec. 2102(a)(3)(A)(ii)(I)—(II). The Act excludes those who are able to telework for pay or are receiving paid sick leave. CARES Act, Sec. 2102(a)(3)(B)(i)—(ii).
- The expanded benefits would last through December 31, 2020.
- The bottom-line: Those who are unemployed, laid-off, on reduced hours, or cannot work for a variety of COVID-19-related reasons are more likely to receive benefits. <https://www.cnbc.com/2020/03/26/coronavirus-relief-bill-what-to-know-about-unemployment-benefits.html>

COVID-19 has already impacted the U.S. economy in ways never seen before. Some observers are already beginning to question whether Congress’s massive economic relief bill is generous enough in light of the challenges COVID-19 will pose over the coming months.

https://www.stltoday.com/business/columns/david-nicklaus/nicklaus-trillion-is-an-unprecedented-amount-of-stimulus-it-also/article_19e675aa-632f-577d-978a-f7996161cbe4.html

If the employment crisis endures, then we may see additional legislation targeted to address these evolving challenges. Some states have already taken additional action on this front, including Illinois Gov. Pritzker's announcement on March 11 of emergency IDES rules. The Illinois changes include a waiver of the requirement the claimant be “actively looking for work,” provided the laid-off employee can merely demonstrate readiness to return to work as soon as their employer

reopens, and a waiver of the 7-day waiting period to apply for benefits.

<https://www.jdsupra.com/legalnews/the-illinois-department-of-employment-23240/>. In Missouri, some are calling for increased benefits at the state level. https://www.stltoday.com/opinion/editorial/editorial-bolster-missouri-s-unemployment-system-for-the-pandemic-s/article_e6c5f31b-4e86-54bc-b955-b0c51a9faf28.html

The COVID-19 epidemic underscores the ever-present imperative to put health and safety first in the workplace, even when the cost is great. Workplace safety is in everyone's self-interest, and employers and employees are not adversaries in the society-wide battle against this new virus. We should keep in mind that employees laid off in the midst of this crisis are not necessarily lazy. Similarly, employers faced with no option but to lay off employees because of decreased revenue or lack of available work are not necessarily callous or evil. While our economy finds its footing again, expanded unemployment insurance eligibility and beefed-up benefits will provide both employees and employers the flexibility to respond to this crisis while meeting their financial needs.

