

Labor & Employment Alert

March 30, 2020

CARES ACT –

\$2 Trillion in Coronavirus Relief

Including Expanded Unemployment Insurance

*For a discussion of these and other legal issues, please visit our website at www.mhtl.com
To receive legal updates via e-mail, contact information@mhtl.com.*

The CARES Act (Coronavirus Aid, Relief, and Economic Security Act) was signed into law on Friday, March 27, 2020. The massive bill provides economic relief for both workers who are laid off and businesses which have shut down or curtailed business operations as a result of the COVID-19 pandemic. The scope of the CARES Act, also known as the stimulus bill, goes far beyond worker benefits and also provides loans for small and large companies as well as multi-faceted support for America's health care system. This client alert summarizes the expanded unemployment insurance provisions of the CARES Act which provide financial assistance to workers unable to work due to COVID-19.

**Expanded Unemployment Insurance Benefits Available for
Both Employees and Self-Employed Individuals Until July 31, 2020**

The unemployment insurance provisions, contained in the "Relief for Workers Affected by Coronavirus Act" (Act), expand both (i) who is eligible for benefits; and (ii) the amount of benefits available.

Who is Eligible for Expanded Unemployment Benefits?

In defining who is a "Covered Individual" eligible for expanded unemployment benefits, the Act includes both employees and self-employed individuals.

In order to be eligible for the expanded benefits, a Covered Individual *self-certifies* that they are otherwise able to work and available for work, *except* the individual is *unemployed, partially unemployed, or unable or unavailable to work* because the individual meets at least one of the following criteria:

Labor & Employment Alert

March 30, 2020

- The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- A member of the individual's household has been diagnosed with COVID-19;
- The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- A child or other person in the household for whom the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of COVID-19 and such school or facility is required for the individual to work;
- The individual is unable to get to work because of a COVID-19 imposed quarantine;
- The individual is unable to get to work because a health care provider has advised them to self-quarantine due to COVID-19;
- The individual was scheduled to start a job and does not have a job or cannot reach the new job because of COVID-19;
- The individual has become the breadwinner because the head of household has died as a result of COVID-19;
- The individual has to quit their job as a direct result of COVID-19;
- The individual's place of employment is closed as a direct result of COVID-19; or
- The individual meets any other criteria established by the Secretary of Labor.

Who is NOT Eligible for Expanded Unemployment Benefits?

The Act specifically provides that a "Covered Individual" does NOT include either an individual who has the ability to telework with pay; or an individual who is receiving paid sick leave or other paid leave benefits, even if the individual meets one of the qualification criteria in the list above.

How Much Can a Covered Individual Receive in Expanded Weekly Unemployment Benefits?

For Covered Individuals who meet one of the qualification criteria in the list above, their ***weekly unemployment benefit*** is equal to the ***sum of***:

The amount the individual would otherwise be entitled to under State law, including dependents' allowances, PLUS \$600.

The \$600 amount is referred to as "Federal Pandemic Unemployment Compensation".

Labor & Employment Alert

March 30, 2020

For How Long Are the Weekly Expanded Unemployment Benefits Available?

In order to provide the expanded unemployment benefits, States are required to enter into an agreement with the Secretary of Labor. The benefits then apply to weeks of unemployment which begin after the date the agreement is entered into and end on or before July 31, 2020. In any event, the weekly expanded benefit amount of \$600 is only available for the time period between when the agreement is signed up until July 31, 2020. As of printing time, Massachusetts and the Secretary of Labor have not yet signed an agreement.

Example of Impact of Weekly Expanded Unemployment Benefits

In Massachusetts, an otherwise eligible individual will receive a weekly unemployment benefit amount of approximately 50% of their “average weekly wage”, up to the maximum set by law, which is currently \$823 per week. In general, the average weekly wage is calculated based on the wages for the prior 4 quarters. Specifically, the top 2 highest quarters of wages are added together. The sum of the 2 highest quarters is then divided by 26 (the number of weeks in the combined quarters), resulting in the “average weekly wage”. The “average weekly wage” is then divided in half to determine the weekly benefit amount. In addition to the weekly benefit amount, an individual may be entitled to the sum of \$25 per week for each dependent child.

To illustrate, say an individual has earned \$48,000 in the prior 4 calendar quarters, *i.e.* \$12,000 per quarter. The top 2 highest quarters amount to \$24,000 (\$12,000 + \$12,000). The “average weekly wage” is determined by dividing \$24,000 by 26 weeks = \$923. The weekly benefit is then determined by dividing \$923 in half = \$461.50.

In the case of an individual eligible for a weekly unemployment benefit amount of \$461.50, provided they meet one of the criteria listed above, and provided Massachusetts enters into an agreement with the Secretary of Labor, they will be eligible for an additional \$600 “Federal Pandemic Unemployment Compensation” per week for weeks up to July 31, 2020. As discussed above, the Act establishes the time period for the expanded \$600 benefit payment as the time period beginning after the date the State and the Secretary of Labor enter into an agreement providing for such payments and ending on or before July 31, 2020.

Labor & Employment Alert

March 30, 2020

Please be advised that the above example is for illustration purposes only, and in any individual case, the weekly unemployment benefit level could be impacted by statutory limitations on total benefit maximums and benefit duration.

Please also be advised that the Act waives the one-week waiting period for unemployment benefits necessitated by COVID-19. On the State level, Massachusetts previously waived such one-week waiting period with legislation enacted on March 18, 2020, with a retroactive effective date of March 10, 2020. Additionally, the Act contains provisions for individuals who have previously exhausted unemployment benefits. Such benefits, known as “Pandemic Emergency Unemployment Compensation” also require an agreement between the State and the Secretary of Labor.

This Client Alert was prepared by Nan O’Neill and was reviewed with Kathryn Murphy, Kier Wachterhauser, Arthur Murphy, and Katherine Hesse. If you have any questions, please contact Nan O’Neill or the attorney responsible for your account, or call (617) 479-5000.

This alert is for informational purposes only and may be considered advertising. It does not constitute the rendering of legal, tax or professional advice or services. You should seek specific detailed legal advice prior to taking any definitive actions.

©2020 MHTL