



Massachusetts Employers Get Welcome Unemployment Relief

Insights

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Massachusetts Governor Charlie Baker just signed a law that prevents Massachusetts employers from being charged increased taxes for unemployment benefits claimed by employees separated from employment during the COVID-19 pandemic. The new law, [Senate Bill 2618](#), also extends the total number of eligible weeks of unemployment from 26 to 30 for any week in which unemployment claims exceed 100,000. This is welcome news for the Commonwealth's employers, many of which have been shuttered since the Governor's March 23, 2020 [shutdown of non-essential businesses](#). Employers can now breathe a bit easier knowing they will not be on the hook for substantial unemployment tax increases in January 2021.

Unemployment Insurance Funding

As you may know, the state's unemployment insurance system is largely funded with quarterly payments by employers to a trust fund maintained by the Department of Unemployment Assistance. For most employers, these payments reflect a percentage of wages paid based on an experience rating. The more an employer's employees apply for unemployment benefits, the "worse" experience rating the employer will have. Employers with worse experience ratings pay a higher percentage of wages into the fund. For established employers, their experience rating is calculated once a year and remains in place until the next benefit year.

The new law alters this process with respect to "an individual separated from employment as a result of any circumstance related to or resulting from" COVID-19 or Governor Baker's March 10, 2020 declaration of a state of emergency. Benefits paid to these individuals will "not be charged to the account of any employer nor included in the calculation of an employer's experience rate." In light of more than 1.23 million new claims for traditional unemployment insurance or the Pandemic Unemployment Assistance program, and an estimated unemployment rate of 16.52%, this statutory change will save employers thousands of dollars in 2021 as they attempt to emerge from the COVID-19 crisis.

Extension Of Benefits

The law also provides an additional trigger to extend unemployment benefits from 26 to 30 weeks. Ordinarily, the number of weeks a claimant is eligible to collect unemployment benefits is tied to the unemployment rate. Under existing law, in any month where the average local unemployment rate is less than or equal to 5.1%, claimants are only entitled to 26 weeks. The existing system did not contemplate a near-total economic shutdown, and the rapid increase in unemployment. Under the

new statute, the 30 weeks of benefits will also be triggered where claims for unemployment in any week exceed 100,000.

Other Changes

The law also eliminates the current “dependency cap” on dependents’ benefits. Prior to the change in the law, unemployed individuals with qualifying dependents were entitled to \$25 per week for each dependent, but the amount was capped at 50% of individual’s weekly benefit amount. For example, a full-time minimum wage worker whose weekly benefit amount is \$255, would have their dependency benefit capped \$127.50. The law now permits claimants to receive 100% of their dependency benefits, regardless of their weekly benefit amounts for up to 18 months after the end of the COVID-19 state of emergency.

In a welcome change for the Bay State’s non-profit employers, the law created a 120-day grace period for payments to the unemployment fund. Under existing law, many non-profits self-insure their unemployment claims, meaning that when they terminate an employee, the non-profit pays the costs of unemployment benefits dollar-for-dollar to the Department of Unemployment Assistance in the next quarter. The new law will provide a 120-day grace period to allow the state to assess whether additional changes are necessary to soften the impact of COVID-19 on the state’s non-profit sector.

What’s Next?

Questions concerning unemployment benefits have been at the forefront of most employers’ minds since the start of the COVID-19 pandemic. To make matters more difficult, there has been rapid change in the way unemployment is funded, how it is awarded, and who is eligible. As the economy slowly starts to re-open, many employers are faced with employees who are being paid more money by unemployment than they would if they were working. Employers are reminded that in most circumstances, an employee’s rejection of an offer of suitable employment will result in a loss of unemployment eligibility. An employee’s failure to report an offer of suitable work constitutes unemployment fraud and should be reported to the Department of Unemployment Assistance.

In addition, both employers and employees should be aware that the governor has identified a “national unemployment fraud scheme” in which criminal enterprises with access to stolen personal information from prior national data breaches have been attempting to file large numbers of unemployment claims, not only in Massachusetts but across the country. The Department of Unemployment Assistance is urging employees and employers who become aware of fraudulent claims to contact the Department at 877-626-6800.

As you begin the process of reopening, you should also familiarize yourself with our alert: [5 Steps To Reopen Your Workplace, According To CDC’s Latest Guidance](#). You should also keep handy our [4-Step Plan For Handling Confirmed COVID-19 Cases When Your Business Reopens](#) in the event you learn of a positive case at your workplace. For a more thorough analysis of the many issues you may encounter from a labor and employment perspective, we recommend you review our [FP BEYOND](#)

[THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

Conclusion

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the [author](#), any attorney in our [Boston](#) office, or any member of [our Post-Pandemic Strategy Group Roster](#).

This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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