

Client Alert

New York State Adds Paid Sick Leave & Waives 7-Day Waiting Period for Coronavirus-Related Unemployment Insurance Claims

March 18, 2020

Below is a discussion of the latest amendments to New York State law enacted as part of the state's ongoing efforts to alleviate new pressure on employees resulting from the spread of and precautions concerning COVID-19, a/k/a the Novel Coronavirus.

Paid Sick Leave and Ability to Qualify for Related Benefits Added in Wake of COVID-19

Yesterday, the New York State Legislature and Governor Andrew Cuomo passed a bill that provides statewide job-protected sick leave and related benefits to protect employees who are quarantined or isolated due to contact with or the contraction of COVID-19 a/k/a Novel Coronavirus. The law will also amend the New York Labor Law to provide for certain job-protected sick leave days for all New York employees going forward.

The NEW legislation adopts the comprehensive paid sick leave proposal first advanced by Governor Cuomo's executive budget on March 3, 2020. It *immediately requires* all public and private employers to offer a certain number of days of job-protected sick leave and related benefits to those employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. Specifically, employers with 1 to 99 employees and a net income of at least \$1 million per annum are now required to offer at least five (5) days of job-protected paid sick leave annually to employees that are subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19, followed by unpaid sick leave until the termination of any mandatory or precautionary order of quarantine or isolation. Employers with 100 or more employees are now required to provide job-protected paid sick leave for the entire quarantine

period (up to 14 days) annually. Smaller employers with 1 to 10 employees and less than \$1 million per annum in net income are also now required to provide unpaid sick leave until the termination of any mandatory or precautionary order of quarantine or isolation. In each of the above cases, the paid time available is immediately available in its entirety. Affected employees now also have the ability immediately to qualify for paid family leave to care for a dependent who is subject to a mandatory or precautionary order of quarantine or isolation due to the Novel Coronavirus, as well as the ability to immediately qualify for temporary disability benefits, regardless of the size of their employer. The state's Department of Financial Services will implement a risk adjustment pool to assist in the stabilization of claims related to such paid family leave and temporary disability benefits. All sick leave required to be provided under this amendment must be provided "without loss of an . . . employee's accrued sick leave."

Notably, also included in this new legislation is a provision which disqualifies an otherwise qualified employee from receipt of the COVID19 based sick leave if the employee's quarantine results from travel for non-employment related reasons to a country defined as a Level 2 or 3 country (as defined by the Centers for Disease Control and Prevention ("CDC")) after the CDC has provided notice of the dangers of travel to such country.

The new legislation further amends the New York Labor Law to provide job-protected sick leave to all employees of private employers. Small employers (1-4 employees) with a net income of less than \$1 million annually must provide employees five (5) unpaid sick days annually, with full job protection for those who take such leave. Meanwhile, medium sized employers (5-99 employees) and small employers (1-4 employees) with a net income of at least \$1 million annually will be required to provide employees five (5) paid job-protected sick days annually. Large employers (100 or more employees) must accordingly provide employees seven (7) paid job-protected sick days annually. This amendment to the New York Labor Law will take effect in 180 days.

Notably, New York City employers are already required to offer job-protected sick leave under the City's [Paid Safe and Sick Leave Law](#). In fact, the requirements for businesses employing up to 99 employees remain unchanged under the new state law. However, the new legislation would require New York City employers with 100 or more employees to provide an additional two days of paid sick leave (*i.e.*, seven (7) days in total). Quarantines and isolations due to COVID-19 would also now become an "acceptable reason" to use such job-protected leave under the New York City law, whereas before that circumstance would not have qualified an employee for paid sick leave.

New York State Eliminates 7-Day Waiting Period for Coronavirus-Related Unemployment Insurance Claims

Governor Cuomo has also issued [Executive Order 202.1](#) which, among other things, suspends the 7-day waiting period for workers in New York to claim unemployment insurance benefits. This suspension applies to unemployment insurance benefit claims that arise directly out of closings of schools or other workplaces in which claimants were employed, or out of claimants' isolation or quarantine in connection with COVID-19. At present, this suspension is scheduled to end in connection with claims filed on and after April 11, 2020 (meaning that a 7-day waiting period would again apply after such date), but it is likely to be extended if economic circumstances do not significantly improve by that date. This suspension offers welcome relief to New Yorkers facing a loss of employment due to COVID-19.

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Morrison Cohen LLP has created the COVID-19 Resource Taskforce, a multidisciplinary taskforce comprised of attorneys with deep expertise in a broad range of legal areas, to assist clients navigating the challenging and uncertain business and legal environment caused by the COVID-19 pandemic. We encourage clients to utilize our capabilities by reaching out to their primary Morrison Cohen attorney contact, who will put you in touch with the appropriate Taskforce person. You may also reach out directly to Joe Moldovan and Alec Nealon, the Taskforce co-chairs:

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