New York State issued guidance on March 20th detailing answers to many frequently asked questions about the newly implemented COVID-19 quarantine leave law. We summarized the key components of the emergency law, which was enacted on March 18, 2020 and became effective immediately, in a previous blog post. In short, employers are immediately obligated to provide certain paid/unpaid leave (with duration and pay status varying based on the employer’s size), job protection, and expanded paid family leave and disability benefits to employees who are subject to a government-issued order of mandatory or precautionary quarantine or isolation due to COVID-19.

The new guidance from New York State confirms that the leave and benefits associated with the new law are narrow, and do not cover many COVID-19-related purposes. We address the relevant portions of the New York State guidance below:
Key Information for Employers:

- **Narrow Eligibility for New COVID-19 Quarantine Protections**
  The leave only applies to “employees affected by COVID-19 who are subject to mandatory or precautionary orders of quarantine or isolation.” (emphasis added.) The FAQ section of the guidance details that “[t]his new law provides benefits in cases where an individual is under an “order” of quarantine – either mandatory or precautionary. (emphasis added.) Entities that may issue an “order” include the State of New York, New York State Department of Health, local Board of Health [such as New York City’s Department of Health and Mental Hygiene] or any government entity authorized to issue such order.” The State is thus taking the position that employees must be issued an actual order from the relevant governmental authority to qualify for leave benefits or for the emergency expansion of New York Paid Family Leave and disability benefits. Under this more narrow interpretation, employees who have self-quarantined due to fears of exposure do not appear eligible for these new benefits.

- **Quarantine Leave Is Available Retroactively**
  Employees may take quarantine leave if they are still currently under an order of mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity even if that order was issued prior to the enactment of the COVID-19 quarantine leave (March 18, 2020).

- **Schools Closures & Eligibility for Expanded Paid Family Leave**
  Again, leave eligibility would only apply if the school closure is a result of the quarantine or isolation order; the guidance makes clear that “if [the employee’s] child’s school closes for preventative social distancing,” the closure is likely not covered by the new leave law. Unfortunately, this distinction seems somewhat unhelpful given the current reality of the situation: Governor Cuomo ordered that all New York State schools close from March 18 through at least April 1, 2020, but did not speak to any “order of mandatory or precautionary quarantine” in doing so. It will therefore be difficult to evaluate whether these current school closures qualify employees for leave protections without further guidance from the State.

- **Narrow Expansion of Disability Benefits & Paid Family Leave for Quarantine Purposes**
  Similarly, in addressing the question of what documents employees need to provide to qualify for the expanded Paid Family Leave and disability benefits, the State guidance states the following: “For every Paid Family Leave claim you must submit the Request for Paid Family Leave (Form PFL-1). Additionally, depending on the type of leave you are taking you will need to submit either the Request for COVID-19 Quarantine Leave for Yourself or the Request for COVID-19 Quarantine Leave for Minor Child. You will also need to submit the mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity.” (emphasis added.) This clarification indicates that these newly expanded benefits are also only available to employees with an actual order of mandatory or precautionary quarantine issued by a government entity.
• **Procedures for Quarantine Leave & Expanded Paid Family Leave/Disability Benefits**

The guidance specifies that employees do not have to apply for the paid quarantine-related leave. However, if the employee runs out of paid quarantine or other paid leave days from their employer, then the employee would need to apply for Paid Family Leave and disability benefits for further compensation during the rest of the quarantine period. After exhausting the paid quarantine leave, eligible employees may receive their weekly wages through a combination of Paid Family Leave and disability benefits up to a newly increased combined maximum of $2,884.62 per week under the new law ($840.70/week in maximum Paid Family leave benefits and $2,043.92/week in maximum disability benefits). The State has not explicitly addressed whether the regular 26 week cap for disability benefits will be lifted (i.e. whether applicants will be able to receive benefits beyond the regular 26-week period during the COVID-19 outbreak). Nor has the State addressed whether individuals who use Paid Family Leave and disability benefits for COVID-19 purposes will be eligible for separate, regular Paid Family Leave or disability leave benefits once the COVID-19 crisis ends (e.g. an employee who wishes to use Paid Family Leave for newborn bonding later in the year after exhausting 26 weeks of COVID-related disability benefits).

To apply for Paid Family Leave/disability benefit compensation during the quarantine period, the employee must send the necessary forms (listed above) to their employer, which has three business days to complete the employer-based sections of the necessary forms and return them to the employee. The employee must then submit their completed forms together with a copy of their order of mandatory or precautionary quarantine (issued by the relevant government entity) to their employer’s disability and Paid Family Leave insurance carrier no later than 30 days from the employee’s first day of leave to avoid losing any benefits. The employer’s insurance carrier must pay or deny these benefits within 18 calendar days of receiving the employee’s completed request for benefits.

• **When Businesses Close, Employees Should File for Unemployment Insurance Benefits**

If an employer temporarily closes or goes out of business because of COVID-19, the guidance instructs employees to apply for Unemployment Insurance benefits.

One major topic that remains unaddressed by the State’s guidance is whether the 14 day paid leave period for larger employers constitutes 14 calendar days or 14 work days. Although the State’s guidance provides some clarity on select topics, we hope that the State will update this guidance regularly to address the 14-day issue and other additional issues that are arising.

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