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Employer Coronavirus Guidance from Alliant ADL Practice

Introduction

As one of the largest insurance brokers in the nation, Alliant Insurance Services has a long history of specialized industry solutions in both employee benefits and property casualty risk solutions.

Formed through the aggregation of recent Alliant acquisitions of the highly regarded American Benefits Consulting and Sagewell Partners, along with the continued addition of top industry talent from the consulting and insurance carrier community, Alliant's Absence, Disability and Life (ADL) practice represents the largest and most formidable collection of absence management, disability, and life insurance expertise in the industry.

Through our trusted relationship with clients and industry partners, over recent weeks we have collected COVID-19 related issues that you have told us are the most pressing. We have summarized those issues, and the most common approaches and solutions, here. Note that an employer's approach will necessarily depend on size, geography, employee demographics, and industry, among others factors. We also include here a brief summary of the various proposals in Congress, and have also prepared two comprehensive charts of federal, state, and local COVID-19 related requirements and leave requirements impacting employers. Please also see our prior [Coronavirus Employer FAQs](#) for additional information.

Employer Provided Paid Time Off (PTO) for COVID-19 Related Absences

Existing employer policies and state and local mandates will certainly impact an employer's requirement to provide paid time off for COVID-19 related absences. We discuss employer mandates more fully in our 50-state charts (see enclosed separate documents) on those requirements. Notwithstanding these requirements, however, many employers are considering – and some have implemented - voluntarily providing additional paid sick leave for COVID-related absences. Employers have approached this issue differently based on a number of factors, including whether the employee is actually ill from COVID-19, under mandatory or self-imposed quarantine, caring for an ill family member, or asking for time off due to fear of contracting the virus.

Indications are that tech companies in highly impacted areas are providing paid time off for hourly employees who miss work for any reason related to the COVID-19. Apple recently reported that it is providing unlimited sick time to hourly workers experiencing COVID-19 symptoms. Other industries are quickly following suit. Walmart—one of the country's largest employers—McDonalds, Uber, Lyft, Darden Restaurants, Instacart, and others have already implemented COVID-19 related paid leave policies for employees while many other employers are developing COVID-19 absence related strategies

Employers considering whether to implement a paid time off policy specific to Coronavirus should review existing policies and applicable legal and regulatory requirements in light of the particular situation presented. Certainly a broad policy providing paid leave for a finite period of time, e.g., at least 14 days for any COVID-19 related absence, is administratively simple, but may not be an option for all employers. Below is a matrix of COVID-19

leave scenarios to help employers decide what approach is best for their organization. In addition, employers may want to wait to see what type of relief—if any—the federal government may offer before making any decisions on a COVID-related PTO policy.

COVID-19 Leave Scenarios

	STD	FMLA	State or Local Paid FML/ Sick Leaves	State Disability Programs
EE Diagnosed with COVID-19	Benefits generally payable	Likely if employee experiencing symptoms and otherwise eligible	Likely applicable if employee experiencing symptoms otherwise eligible	Likely approved if employee experiencing symptoms
EE Family Member Diagnosed with COVID-19	Likely not approved	Likely approved to care for a family member if employee otherwise eligible	Likely approved	Likely not applicable
EE self-quarantine for suspected COVID-19 infection	Likely not approved	Likely not approved unless/until serious health condition (SHC)	Possibly approved	Possibly approved
EE refuses to work due to fear of infection	Likely not approved	Likely not approved Unless eligible for other SHC	Likely not approved Unless eligible for other covered condition	Likely not approved
Employee is well but worksite is closed due to COVID-19	Likely not approved	Likely not approved	Likely not approved	Likely not approved

Working Remotely

Most employers are currently evaluating whether their employees should work remotely, rather than gather in an office and at meetings and conferences. Certainly, decisions on whether an employee can perform the essential functions of the job while working remotely are made on a case-by-case basis, but where an employer has a significant amount of its workforce capable of working remotely, there seems to be at least some consistency.

The majority of the employers are encouraging and enabling employees to work from home, with a number of employers in highly impacted areas requiring employees in those areas work remotely, at least through the end of March. As this situation evolves and the virus continues to spread, employers should consider their approach and engage their IT departments to ensure they have sufficient hardware and remote system access/capacity available to allow as many employees as possible to work remotely.

Business Travel

Whether an employee should travel for work is an acute issue for many employers. From the information we have, the approaches to business travel fall into the following categories:

- **Prohibiting all non-essential travel**
- **Prohibiting international travel**
- **Prohibiting all travel**
- **Prohibiting all travel except high business impact travel**

Prohibiting all non-essential travel is the most common approach we've seen. While this prohibition provides employees with some flexibility, it also imparts discretion in the decision-making process as to what constitutes essential travel in a way that may make certain employees uncomfortable. Qualifying this by recommending/requiring manager consultation would help. The best practice here would be to also advise employees they are not required to travel under any circumstance.

A Note on Workers' Compensation and Life Insurance

Where an employee is diagnosed with COVID-19 or quarantined after exposure as a result of their work environment, it is possible those employees would be entitled to Workers Compensation benefits, which are governed separately by state. Employers, especially those in the healthcare industry, should consult their workers' compensation policy and be prepared to address this with employees.

As it relates to life insurance, fortunately, the number of individuals who have died remains small. However, Group Term Life Insurance policies do not contain exclusions or restrictions for pandemics. Accidental Death and Dismemberment Policies often do contain such exclusions. Your Alliant representative can assist you in reviewing your current policies.

Executive and Congressional Proposals

In his recent address to the country, President Trump promised measures to stimulate the economy, including tax breaks and deferments, and aid to small businesses. We will monitor how these measures develop and which individuals and entities will be most impacted. Notably, the President did not address paid sick leave or other measures for hourly workers and others impacted by the virus, a component certain to be a key requirement for Congressional Democrats.

On the legislative front, Congressional Democrats have just released the 'Families First Coronavirus Response Act' a multi-faceted legislative stimulus package designed to mitigate the economic impact of COVID-19, including:

- **Free coronavirus testing for everyone who needs a test, including the uninsured**
- **Paid emergency leave with both 14 days of paid sick leave and up to three months of paid family and medical leave**
- **Enhanced Unemployment Insurance, a first step that will extend protections to furloughed workers**
- **Strengthened food security initiatives, including SNAP, student meals, seniors nutrition and food banks**
- **Clear protections for frontline workers, including health care workers and other workers who are in contact with those who have been exposed or are responsible for cleaning at-risk places**

- **Increased federal funds for Medicaid, as states face increased costs.**

Please see our [Alert](#) on this topic. We will continue to monitor the evolution of this legislation as it makes its way from the House to the Senate.

In addition to the Families First Coronavirus Response Act, there are at least three paid sick leave proposals that have been introduced, only one of which has the text of the bill available. We summarize these proposals in detail in our 50-state chart and will continue to monitor their progress as well. At this rate, we anticipate the legislative energy to be focused on the more comprehensive legislation released on March 11, 2020.

Conclusion

We at Alliant understand and are experiencing this crisis with you. We are fortunate to have a practice specifically committed to the complex issues related to employee absences and are uniquely positioned to partner with you in that regard. We are committed to providing timely updates, support, and best practices as we all navigate through this together.

We have responded to many employer-specific inquiries already. Please contact your Alliant representative should you require additional assistance or if you have specific questions about your benefit programs.

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