

This is for informational and educational use only. Nothing in this discussion should be considered legal advice. Please consult with the appropriate attorney or advisor before addressing any situation raised in this discussion.

Please find any FAQs discussed in our webinar here: <https://www.onegroup.com/covid19-updates/>

Information from Tuesday, March 31 Webinar:

Risk Management

Safety & Health

- The Covid-19 issue continues to unfold with refined definition of essential business, passing of the CARES Act and many other changes, developments and responses. In the area of risk management, safety and health the focus continues to evolve away from the technical aspects of the virus itself to the control aspects of doing business in a new environment.
- Two key areas are surfacing as critical to maintaining a productive workforce:
 - Implementing and maintaining **Operational Controls** (minimizing the number of Covid-19 cases), and
 - **Responding** to exposures, potential exposures and positive Covid-19 tests.

1. Operational Controls

- a. Make sure your workplaces are clean and hygienic Sur.
 - i. aces (e.g. desks and tables) and objects (e.g. telephones, keyboards) need to be wiped with disinfectant regularly.
 - ii. Why? Because contamination on surfaces touched by employees and customers is one of the main ways that COVID-19 spreads
- b. Promote regular and thorough hand-washing by employees, contractors and customers.
 - i. Put sanitizing hand rub dispensers in prominent places around the workplace.
 1. Make sure that staff, contractors and customers have access to places where they can wash their hands with soap and water o
Why? Because washing kills the virus on your hands and prevents the spread of COVID19
 2. Make sure these dispensers are regularly refilled
 - ii. Communicate & Educate your employees.
 1. Display posters promoting hand-washing - ask your local public health authority for these or look on www.cdc.com, www.WHO.int., www.onegroup.com, etc.
 2. Constantly talk about the need and the procedures involved in hygiene (Distance, hand washing, etc.).
- c. Promote good respiratory hygiene in the workplace.

- i. Display posters promoting respiratory hygiene.
 - 1. Combine this with other communication measures.
 - 2. Ensure that face masks and / or tissues are available at your workplaces, for those who develop a runny nose or cough at work, along with closed bins for hygienically disposing of them.
 - a. Why? Because good respiratory hygiene prevents the spread of COVID-19
 - d. Think about who comes into your facility.
 - i. Advise employees and contractors to consult national travel advice before going on business (or other) trips.
 - ii. Ask employees to notify you of trips they have taken.
 - 1. Assess potential exposures associated with travel to determine if it is advisable to allow employees into the workplace following travel.
 - iii. Identify who will be coming into your facility (contractors, vendors, clients, etc.)
 - 1. Establish and frequency review policies on who is, and who is not brought into the building.
 - 2. Educate contractors, vendors, etc., on your policies before they walk in the door.
 - e. Keep your OSHA programs up and running.
 - i. The OSHA standards that were in place before the pandemic are still in place. Don't back off on the general safety program you had. Don't get distracted from things like guarding, body mechanics and slip / fall prevention. Those exposures are still there.
 - ii. MACNY OSHA presentation (April 3rd @ 1:00 pm)
2. Response
 - a. Treat a suspected Covid-19 case as a positive case, until confirmation is received.
 - b. You should send home all employees who worked closely with that employee to ensure the infection does not spread.
 - i. Before the infected employee departs, ask them to identify all individuals who worked in close proximity (within six feet) for a prolonged period of time (more than a few minutes) with them in the previous 14 days to ensure you have a full list of those who should be sent home.
 - ii. When sending the employees home, do not identify by name the infected employee or you could risk a violation of confidentiality laws. If you work in a shared office building or area, you should inform building management so they can take whatever precautions they deem necessary.
 - iii. The CDC provides that the employees who worked closely to the infected worker "should then self-monitor for symptoms (i.e., fever, cough, or shortness of breath)."

- c. How long should the employees who worked near the employee stay at home?
 - i. Those employees should first consult and follow the advice of their healthcare providers or public health department regarding the length of time to stay at home.
 - ii. If those resources are not available, the employee should at least remain at home for three days without a fever (achieved without medication) if they don't develop any other symptoms.
 - iii. If they develop symptoms, they should remain home for at least seven days from the initial onset of the symptoms, and three days without a fever (achieved without medication).
- d. The [CDC also provides the following recommendations](#) for most non-healthcare businesses that have suspected or confirmed COVID-19 cases:
 - i. It is recommended to close off areas used by the ill persons and wait as long as practical before beginning cleaning and disinfection to minimize potential for exposure to respiratory droplets. Open outside doors and windows to increase air circulation in the area. If possible, wait up to 24 hours before beginning cleaning and disinfection.
 - ii. Cleaning staff should clean and disinfect all areas (e.g., offices, bathrooms, and common areas) used by the ill persons, focusing especially on frequently touched surfaces.
 - iii. To clean and disinfect
 - a. If surfaces are dirty, they should be cleaned using a detergent or soap and water prior to disinfection (Note: "cleaning" will remove some germs, but "disinfection" is also necessary).
 - b. For disinfection, diluted household bleach solutions, alcohol solutions with at least 70% alcohol, and most common EPA-registered household disinfectants should be effective.
 - c. Diluted household bleach solutions can be used if appropriate for the surface. Follow manufacturer's instructions for application and proper ventilation. Check to ensure the product is not past its expiration date. Never mix household bleach with ammonia or any other cleanser. Unexpired household bleach will be effective against coronaviruses when properly diluted.
 - d. Cleaning staff should wear disposable gloves and gowns for all tasks in the cleaning process, including handling trash.
 - e. Gloves and gowns should be compatible with the disinfectant products being used.
 - f. Additional PPE might be required based on the cleaning/disinfectant products being used and whether there is a risk of splash. Follow the manufacturer's instructions regarding other protective measures recommended on the product labeling.

- g. Gloves and gowns should be removed carefully to avoid contamination of the wearer and the surrounding area. Be sure to clean hands after removing gloves.
- h. Employers should develop policies for worker protection and provide training to all cleaning staff on site prior to providing cleaning tasks. Training should include when to use PPE, what PPE is necessary, how to properly don (put on), use, and doff (take off) PPE, and how to properly dispose of PPE.
- i. If you require gloves or masks or other PPE, prepare a simple half-page Job Safety Analysis (JSA): list the hazards and the PPE (gloves, masks, etc., as needed), and the person who drafts the JSA should sign and date it.

Note: If employers are using cleaners other than household cleaners with more frequency than an employee would use at home, employers must also ensure workers are trained on the hazards of the cleaning chemicals used in the workplace and maintain a written program in accordance with OSHA's Hazard Communication standard (29 CFR 1910.1200).

- Simply download the manufacturer's Safety Data Sheet (SDS) and share with employees as needed, and make sure the cleaners used are on your list of workplace chemicals used as part of the Hazard Communication Program (which almost all employers maintain).

References:

- <https://www.osha.gov/Publications/OSHA3990.pdf>
- <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>
- <https://www.who.int/docs/default-source/coronaviruse/getting-workplace-ready-for-covid-19.pdf>
- <https://hbr.org/2020/03/your-employee-tested-positive-for-covid-19-what-do-you-do>
- <https://www.fisherphillips.com/faqs>

Business Insurance Claims and Coverage

Yesterday, The New York State Department of Financial Services adopted an emergency regulation requiring New York State regulated issuers of life insurance and property and casualty insurers to provide relief to New York State consumers and businesses experiencing financial hardship due to COVID-19.

Consumers experiencing financial hardship due to COVID-19 may defer paying life insurance premiums for ninety (90) days.

- Consumers and small businesses experiencing financial hardship due to COVID-19 may defer paying premiums for property and casualty insurance for sixty (60) days.
- Premium finance agencies are required to provide the same relief as insurers.

We have reached out to a number of our carrier partners on this subject: The feedback that we're receiving from insurance carriers is that this is not automatic... and we would ask that you please keep the communication channels open with your OneGroup Team. The insurance carriers had told us that while they will make accommodations they will be doing so on a case by case basis as they can be specific to your circumstances. Things that they will consider - timing of the renewal, number of installments, will a shift in the exposure also need to be taken into consideration, etc.

If you do find that you anticipate a shift in exposure please let us know; maybe your operations are changing, location(s) will be vacant, manufacturing a different product to assist in combatting product shortages, etc. Please keep us informed so that we may assess the risk with the carrier and provide you with good direction and advice.

We continue to receive numerous questions from clients and we welcome them... should you have any questions relative to coverage, potential claims, payment terms or a shift in exposure, please do not hesitate to reach out to a member of your team.

Human Resources

New York State Specific Updates

Executive Order – Decrease in In-Person Workforce

Governor Cuomo has ordered businesses to decrease their in-person workforce **by 100 percent, effective Sunday evening (March 22, 2020 at 8:00 p.m.).**

On March 29, extended through April 15.

- Governor Cuomo has directed the state nonessential workforce to continue to work from home for an additional two weeks through April 15th.
- In-person workforce restrictions, which have been implemented through various executive orders are also extended until April 15th.

Construction – March 27 Announcement

- All non-essential construction must shut down except emergency construction, (e.g. a project necessary to protect health and safety of the occupants, or to continue a project if it would be unsafe to allow to remain undone until it is safe to shut the site).

- Essential construction may continue and includes roads, bridges, transit facilities, utilities, hospitals or health care facilities, affordable housing, and homeless shelters. At every site, if essential or emergency non-essential construction, this includes maintaining social distance, including for purposes of elevators/meals/entry and exit. Sites that cannot maintain distance and safety best practices must close and enforcement will be provided by the state in coordination with the city/local governments. This will include fines of up to \$10,000 per violation.
- For purposes of this section construction work does not include a single worker, who is the sole employee/worker on a job site.

March 27, 2020 announcement; many of you know of the executive order to reduce in-person staff (50, 75, 100%)

<https://esd.ny.gov/guidance-executive-order-2026>

Families First Coronavirus Response Act (FFCRA) Updates and FAQs

March 25, 2020

On March 25, 2020, the Department of Labor (DOL) published a notice for employers to use to satisfy the posting requirement in the Families First Coronavirus Response Act (FFCRA). Covered employers can find the FFCRA notice [here](#).

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Per the FAQs, each covered employer must post a notice of the Families First Coronavirus Response Act (FFCRA) requirements in a conspicuous place on its premises. An employer may satisfy this requirement by emailing or direct mailing this notice to employees, or posting this notice on an employee information internal or external website.

59 FAQs provided by the DOL – Selected 5 to Review

What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?

The FFCRA's paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

What records do I need to keep when my employee takes paid sick leave or expanded family and medical leave?

Private sector employers that provide paid sick leave and expanded family and medical leave required by the FFCRA are eligible for reimbursement of the costs of that leave through refundable tax credits. If you intend to claim a tax credit under the FFCRA for your payment of

the sick leave or expanded family and medical leave wages, you should retain appropriate documentation in your records. You should consult Internal Revenue Service (IRS) applicable forms, instructions, and information for the procedures that must be followed to claim a tax credit, including any needed substantiation to be retained to support the credit. You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.

If one of your employees takes expanded family and medical leave to care for his or her child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19, you may also require your employee to provide you with any additional documentation in support of such leave, to the extent permitted under the certification rules for conventional FMLA leave requests. For example, this could include a notice that has been posted on a government, school, or day care website, or published in a newspaper, or an email from an employee or official of the school, place of care, or child care provider.

If my employer is open, but furloughs me on or after April 1, 2020 (the effective date of the FFCRA), can I receive paid sick leave or expanded family and medical leave?

No. If your employer furloughs you because it does not have enough work or business for you, you are not entitled to then take paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to

If I am an employer, may I require an employee to supplement or adjust the pay mandated under the FFCRA with paid leave that the employee may have under my paid leave policy?

No. Under the FFCRA, only the employee may decide whether to use existing paid vacation, personal, medical, or sick leave from your paid leave policy to supplement the amount your employee receives from paid sick leave or expanded family and medical leave. The employee would have to agree to use existing paid leave under your paid leave policy to supplement or adjust the paid leave under the FFCRA.

Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?

If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

However, if your employer was covered by the FMLA prior to April 1, 2020, your eligibility for expanded family and medical leave depends on how much leave you have already taken during

the 12-month period that your employer uses for FMLA leave. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current [12-month period determined by your employer](#), you may take the remaining portion of leave available. If you have already taken 12 workweeks of [FMLA](#) leave during this 12-month period, you may not take additional expanded family and medical leave.

For example, assume you are eligible for preexisting FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to preexisting FMLA leave.

If your employer only becomes covered under the FMLA on April 1, 2020, this analysis does not apply.

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

CARES Act

On March 25, 2020, the Senate unanimously passed (96-0) the [Coronavirus Aid, Relief, and Economic Security Act](#) ("CARES Act"), commonly known as "Phase Three" of coronavirus economic relief. The CARES Act provides stimulus to individuals, businesses, and hospitals in response to the economic distress caused by the coronavirus (COVID-19) pandemic.

On March 27, 2020, the House of Representatives passed the CARES Act by voice vote.

President Trump signed the bill into law that same day.

Unemployment Insurance

Creates a new Pandemic Unemployment Assistance program (through December 31, 2020) to help those not traditionally eligible for Unemployment Insurance (UI), including self-employed individuals, independent contractors, those with limited work history and those who are unable to work as a result of the coronavirus public health emergency.

Provides additional \$600/week payment to each UI or Pandemic Unemployment Assistance recipient through the end of July 2020.

Provides funding for the 1st week of unemployment for states to waive the traditional "waiting week" before benefits begin.

Provides an additional 13 weeks of unemployment to help those who remain unemployed after weeks of state unemployment are no longer available. (total 39 weeks; generally 26 weeks)

Provides states with temporary, limited flexibility to hire temporary staff or re-hire former staff to quickly process unemployment claims.

Provides funding to states to help them maintain short-time compensation programs to prevent layoffs, as well as expand these work sharing programs in the future.

Summary provided by SHRM <https://www.shrm.org/hr-today/public-policy/Documents/SHRM%20Analysis%20CARES%20Act%20-%20Employer%20Provisions.pdf>

<https://labor.ny.gov/ui/pdfs/pandemic-unemployment-assistance.pdf>

<https://labor.ny.gov/ui/pdfs/cares-act-need-to-know.pdf>

Employee Benefits

Much of what was covered in our last update relative to the CARES act has now been passed into law.

The bill expands coverage beyond what was in the Families First bill passed on March 18th, by requiring health insurers to pay for coronavirus testing beyond those that are FDA-approved, including lab and state-developed tests as well as other tests approved by HHS.

Accessibility for telehealth is also expanded. High-deductible health plans with HSAs may now allow pre-deductible coverage for telehealth and other remote services, as well as allowing the use of HSAs for the purchase of over-the-counter medications without a prescription.

Previous guidance on telehealth allowed the ability to cover coronavirus related services at no cost, prior to the annual deductible being satisfied. Some carriers were allowing all telehealth services be covered at no cost. Though many did not feel that the IRS would be strict in enforcing the HSA eligibility rules in this case, we now have legal guidance allowing this.

This provision will allow for carriers and self-insured groups who offer telemedicine to do so at no cost or copay for ALL visits. Allowing telemedicine at no cost for all visit types will help reduce traffic at provider offices.

Please note, this is only temporary relief. This safe harbor only applies for plan years beginning before January 1, 2022.

In addition to allowing all telemedicine to be no cost on all plans, there have also been expansions to the usage of HSAs, HRAs, and Medical FSAs included in the act.

HSAs, FSAs, and some HRAs may be used to purchase over-the-counter drugs without a physician's prescription. This rolls back the prescription requirement imposed by the ACA and is effective for expenses incurred and amounts paid after December 31, 2019.

Also included in the bill is a new ability to purchase menstrual care products including tampons, pads, liners, and similar products with an HSA, FSA, and some HRAs.

Should a vaccine become available, the CARES act will require that all health plans provide free coverage without cost, within 15 days of the vaccine meeting federal criteria, removing the usual one-year delay.

Though this may be the extend of the health insurance related updates, short of a phase four agreement, we do continue to hear of different carrier updates. These updates include covering coronavirus related treatment in full, allowing special enrollment periods for current employees, and relaxing eligibly policies for those employers forced to lay off or furlough employees.

With coverage and flexibility varying by carrier, and funding model, we suggest reaching out to your carrier or consultant with any plan specific questions.

Retirement

Here is a [helpful resource](#) from the American Retirement Association that was referenced during the call.

Small Business Relief

The Coronavirus Aid, Relief, and Economic Security (CARES) Act - References, Attachments, Resources

- U.S. Chamber of Commerce – Coronavirus Emergency Loans SB Guide & Checklist
- MACNY – CARES Act: Q&A on Key Provisions
- Bond Schoeneck & King – What to Expect in CARES Act - 3/27/20
<https://www.bsk.com/news-insights/what-to-expect-in-the-cares-act>

What is the CARES Act?

Recently enacted Federal government legislation to help small and large businesses keep workers employed during the pandemic and economic downturn.

What does it do to help Small Businesses?

Creates a new loan program run out of the Small Business Administration or SBA called the Paycheck Protection Program (PPP). The PPP is designed to provide businesses capital to continue paying their workers during the COVID 19 crisis.

Borrowers will obtain funding by working through their private local banks or other lending institutions (Credit Unions) that are approved by the SBA to participate in the program. Most local banks are already approved to participate.

Before I jump into the details of the program let me comment on where things are with the banks. I've touched base with at least six local banks in the last day and expect to be getting updates from them over next few days.

Like everyone else they are in midst of sorting all this out, reviewing the program and figuring out how to implement it internally at each of their institutions.

- Back and forth with the SBA sorting out details.
- They are getting inundated with calls so patience will be required.
- Bottom line is they don't have all the answers yet – remember that when you contact them.

Best advice I can give you is to reach out to bank with whom you currently do business. Their first priority is going to be to their existing clients. Open the lines of communication. Now is not the time to be changing banks if you can avoid it. Preferable to be working with someone that knows you and your business.

Having said that if it makes sense to do so please let us know and we'll provide you with multiple contact options at local banks.

PPP Program

Who is Eligible for the PPP Program? Limit comments to PPP program

A small business with fewer than 500 employees including full time, part time, or any other status. This includes certain 501(c)(3) non-profits, veteran's organizations and tribal businesses, Sole proprietorships, independent contractors and self-employed individuals.

What Will Lenders be Asking for or Need?

Was the business operating and paying salaries, payroll taxes, before February 15, 2020.

You will have to certify that:

- The uncertainty of current economic conditions makes the loan request necessary to support ongoing operations
- The borrower will use the loan proceeds to retain workers and maintain payroll or make mortgage, lease, and utility payments
- You don't have another application in process for the same purpose.
- Must apply before June 30, 2020.
-

Normal analysis of historical financial information?? – 3 years fin statements, business and or personal tax returns – not sure but be prepared. Will need specific payroll data etc.

The Bank will Not Require:

- A personal guarantee
- Collateral
- Fees – waived
- 100% guaranty vs the typical 75-85%

How much can I Borrow?

Up to 2.5x the borrower average monthly payroll costs based on the prior year, not to exceed **\$10 million**.

In order to calculate your average monthly payroll costs I'm going to refer you to the U.S. Chamber of Commerce brochure tagged on our website. Certain expenses are included and other excluded. Calculations included for seasonal businesses and for business with employees earning tips.

For what purposes may a business use its loan?

Proceeds may be used to pay employee compensation & benefits including salaries, health care costs, retirement benefits, vacation, etc. Also rent, mortgage, lease, payments, utility bills. Double check this with the Bank

Repayment

For PPP loans obtained between February 15, 2020 to June 30, 2020, the PPP lender will allow a complete deferment of repayment of at least 6 months, and up to a maximum of one year.

Is their Loan Forgiveness?

Borrowers are eligible for loan forgiveness equal to certain costs incurred and payments **made during the 8-week period starting from the date of loan origination.**

Eligible costs and payments include: payroll costs (on salaries up to \$100,000), mortgage, rent, and utility payments.

Can Loan Forgiveness be Reduced?

The amount of loan forgiveness eligibility can be reduced if there is a reduction in the number of employees or a reduction of greater than 25% in wages paid to employees.

What if I bring back employees or restore wages?

To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that rehire workers previously laid off will not be penalized for having reduced their payroll.

Any portion of a loan not forgiven can be repaid over the course of 10 years with an interest rate of at most 4%.