

Service

Labor & Employment

Professional

THOMAS P. GODAR

MADISON:

608.234.6064

THOMAS.GODAR@

HUSCHBLACKWELL.COM

2019 Wisconsin Act 185: Unemployment Provisions

On April 15, 2020, Governor Evers signed into law the 2019 Wisconsin Act 185 with bipartisan support, a state response to the COVID-19 pandemic enacting certain provisions implemented in previously issued emergency orders. Several of the provisions focus on easing burdens imposed on healthcare providers and accessing federal funding impacting the healthcare industry. Key provisions relate to healthcare regulatory, health insurance, unemployment, K-12 education, food and personal care return, and property tax.

The Act contains several items affecting unemployment in Wisconsin.

A. CARES Act and unemployment claims

The most significant employment-related change coming out of the Act 185 legislation is the elimination of a waiting week for those otherwise eligible for unemployment (UI) compensation. If an individual started a new claim in the week of March 15, 2020, and already served the waiting week, he or she will receive back payments for that week. The Unemployment Insurance Division of the Department of Workforce Development (DWD) is working on the process to make those back payments by April 25, 2020.

This change is related to the CARES Act, which provided additional federal pandemic UI compensation payments of \$600 per week beginning immediately after UI, for those states without a waiting week, along with providing up to 39 weeks of UI compensation to individuals not normally eligible for UI compensation, including the self-employed, independent contractors and workers with limited work history. This is particularly important as DWD records show 392,000 people have successfully filed for UI benefits since March 15, 2020. In a strange irony, DWD Secretary Caleb Frostman indicated that the agency is hiring 200 more people to help process

UI compensation claims. This is related to the unprecedented wave of UI and the fact that calls into DWD during seven days of mid-April tallied more than 4 million, an increase of nearly 3 million calls from the prior week.

For employers, the good news is that COVID-19-related UI claims will be charged to Wisconsin's balance account and not the employers account. The consequence is that such claims will not adversely affect the employers UI tax rate.

B. Work-share program

The provisions affecting the UI compensation work-share program were amended to lift the restriction that any reduction of hours was within a work unit but may include a reduction of hours in lieu of a layoff of two or more employees generally. This opens up the work-share program to smaller employers.

C. Workers' compensation and COVID-19

Workers' compensation payments for first responders who contract COVID-19 will be made available under this legislation. It will be presumed that first responders who have had contact with persons who are COVID-19 positive was the work-related cause for any such illness suffered by the first responder. While this presumption can be rebutted by specific evidence that exposure was caused outside of work, this makes the likelihood of successful claims much greater.

D. Personnel file provision and inspection

Another small change to the law removed temporarily the requirement for employers to provide an employee's personnel file within seven working days of a request of such a file. Likewise, the employers relieved of the obligation provide an opportunity for the employee to inspect those personnel records at this time.

Comprehensive CARES Act and COVID-19 guidance

Husch Blackwell's CARES Act resource team helps clients identify available assistance using industry-specific updates on changing agency rulemakings. Our COVID-19 response team provides clients with an online legal Toolkit to address challenges presented by the coronavirus outbreak, including rapidly changing orders on a state-by-state basis. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.