

COVID-19 and Unemployment Claims in the DMV

By Jessica Summers

As businesses across our region grapple with how to handle the unprecedented challenges posed by COVID-19, questions abound about what impact a business' decisions will have on its employees' eligibility for unemployment benefits. Here's a guide to where things currently stand in the DMV:

Maryland

Earlier this week, the Maryland General Assembly went into special session to pass emergency legislation dealing with the Coronavirus. As to unemployment, the legislation allows the Maryland Secretary of Labor to determine that an individual can be eligible for unemployment even if she hasn't been terminated if (1) her employer has ceased operation because of COVID-19, (2) she has been quarantined or (3) she has ceased work because of risk of exposure or infection or to care for an infected family member.

In turn the Maryland Department of Labor, Licensing and Regulation has put out a helpful Q&A making it clear that:

- Employees who have not been terminated but who are unable to work because their employer has temporarily ceased operations due to the virus may be eligible for unemployment benefits; and
- Employees whose hours have been reduced because of business slow down as a result of COVID-19 may be eligible for partial unemployment benefits.

Thus far, it is not clear whether Maryland will continue to apply its standard processes when it comes to reviewing applications for unemployment and requiring individuals to file weekly claim certificates certifying that they have been seeking work. The state is encouraging applicants to file for unemployment online in light of the increased volume of claims.

District of Columbia

The DC Counsel has also enacted emergency legislation on COVID-19 that, among other things, addresses unemployment claims. Specifically, the legislation provides that during the period while the Mayor has declared a state of emergency due to COVID-19, employees who have become unemployed or partially unemployed (including where employees are quarantined or an employer has ceased operations) are eligible for unemployment benefits even if they have a date certain to return to work or they have a reasonable expectation that the current employer will return them to work. The emergency law specifically provides that benefits paid under the expanded eligibility won't count against the experience rating for the employer's account.

Thus, like in Maryland, employees who cannot work or whose hours have been reduced because of COVID-19 may be eligible for unemployment benefits in DC.

DC has also not addressed whether the standard review and claim procedures will continue to apply during this time.

Virginia

Earlier this week, Virginia Governor Ralph Northam announced a number of emergency measures for the Commonwealth, including related to unemployment insurance. Specifically, the Governor directed that:

(1) the one week waiting period for unemployment applications be waived and benefits be paid as soon as possible,

(2) that workers may be eligible to receive benefits if their employer slows or ceases operations, if they have been issued an order to self-quarantine, or if they have to stay home to care for an ill family member and doesn't have paid family medical leave to cover such time, and

(3) that impacted workers will get special consideration with respect to deadlines, mandatory re-employment appointments and work search requirements.

In short, individuals who have not been terminated but cannot work or have had reductions in hours because of COVID-19 may be eligible for full or partial unemployment benefits.

The Virginia Employment Commission has also put together a Q&A on this issue.

If you have questions regarding how to handle leave issues during the current spread of the Coronavirus, please contact the employment attorneys at Paley Rothman.