

Unemployment Compensation Improves for Employers and Employees under New Federal and State Laws

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The federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) Pennsylvania Act 9 of 2020 became law on March 27, 2020 and contains several unemployment compensation enhancements that benefit both employers and employees.

Section 2103 of the CARES Act provides important relief for employers that use the “reimbursable method” or, in other words, are self-insured for unemployment insurance compensation purposes instead of paying unemployment compensation taxes. Typically, employers using the reimbursable method repay the Commonwealth for all of the unemployment compensation benefits charged to their account. With COVID-19 pandemic-related layoffs and unemployment compensation claims skyrocketing, this arrangement was particularly concerning for such employers. Section 2103 of the CARES Act provides a 50% reimbursement of unemployment compensation benefits paid by employers using the reimbursable method from March 13, 2020 through December 31, 2020. The reimbursements will be paid to the States and then passed on to employers under procedures that will be outlined in future guidance.

Section 2103 also allows the Secretary of Labor to permit States to give reimbursable employers more leeway regarding deadlines to pay their State back for benefits charged to their accounts and also flexibility to reduce or forego penalties or interest that would ordinarily apply to late payments.

Another major part of the CARES Act is 100% funded by the federal government. Section 2104 of the Act provides an additional \$600 per week benefit for up to four months to supplement regular unemployment compensation benefits. This enhancement will remain in effect through July 31, 2020. Regular unemployment benefits in Pennsylvania typically amount to 50% to 70% of a claimant’s regular pay. For some the additional \$600 on top of those regular benefits will temporarily increase unemployment compensation benefits to 100% or more of their regular pay.

Finally, Section 2107 of the CARES Act temporarily provides an additional 13 weeks of unemployment compensation benefits after the standard 26-week benefit period runs out. As a result, individuals who are laid off can receive up to 39 weeks of unemployment compensation benefits through December 31, 2020.

Pennsylvania enacted Act 9 of 2020 on March 27, 2020, to take advantage of the increased flexibility permitted by recent federal legislation and to ease eligibility requirements for unemployment compensation claimants whose unemployment is related to the COVID-19 outbreak or the efforts to contain its spread. These changes include waiving the one week waiting period for the duration of the COVID-19-related state of disaster and emergency declared by Governor Wolf and waiving job search and registration requirements for that same period of time.

In addition, eligible employers will be granted automatic relief from charges for claims related to the COVID-19 outbreak or the efforts to contain its spread. However, the longstanding

rule that self-insured employers that use the “reimbursable method” cannot receive relief from charges unless they pay an annual solvency fee remains in effect, underscoring the importance of the relief that the CARES Act provides to those employers. Under Act 9 such reimbursable employers also granted an extended period of time to repay benefits charged to their account, can qualify for interest-free repayments if they can demonstrate financial hardship, and will not be charged interest on late payments through January 1, 2021.

The practical effect of the automatic relief from charges for employers who use the “contributory method,” or in other words who pay unemployment compensation insurance taxes to the Pennsylvania State Unemployment Compensation Trust Fund, is that their unemployment compensation tax rate will not increase due to COVID-19-related claims. Ordinarily that tax rate is based on the employer’s experience rating, which reflects claims filed by its former or current employees.

Act 9 also directs employers to notify employees at the time of termination of the availability of unemployment compensation benefits for individuals who meet the requirements of the Unemployment Compensation Law, the ability to file an unemployment compensation claim in the first week that employment stops or work hours are reduced, and the availability of assistance with and information about unemployment compensation issues on the Department of Labor and Industry’s website or by calling its toll-free number at 888-313-7284. Employees must also be informed that in order to file a claim they will need to provide their full legal name, Social Security number, and, if they are not a citizen or resident of the United States, information about their authorization to work in this country.

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