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Updates Regarding Unemployment Assistance Under the CARES Act

The Department of Labor (“DOL”) recently released two advisories providing further information, and instructions to the states’ workforce agencies regarding implementation of the expanded unemployment benefits under the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act. A summary of the benefits available under the CARES Act can be found [here](#).

In the newly issued advisories, the DOL reiterates that the additional \$600 payments are available from the time a state enters into an agreement with the federal government through July 31, 2020. It also clarifies that if there is a delay in implementing the payments, workers will receive the benefits retroactively. The additional \$600 payment is taxable income, and any debts or child support obligations will be deducted in the same manner and to the same extent as they would be from regular unemployment payments.

Unemployment benefits are available based on partial unemployment, but the CARES Act defers to the states to determine the qualifications for, and calculation of such benefits.

Additionally, the DOL offers insight into how it intends states to interpret the expanded categories of benefits available under the CARES Act. The expansion provides unemployment benefits to individuals who do not otherwise qualify for state unemployment benefits, who are unable to telework with pay, who are not otherwise receiving paid sick leave or other paid benefits, and who meet one of the below categories.

- **The individual has been diagnosed with COVID-19, or is seeking a medical diagnosis for symptoms of COVID-19.** This includes when an individual has tested positive for, or been diagnosed with COVID-19, preventing the person from being able to work or telework. It also includes when an individual “has to quit his or her job due to coming in direct contact with someone who has tested positive...and, on the advice of a medical health professional is required to resign

from his or her position in order to quarantine.”

- **A member of the individual’s household has been diagnosed with COVID-19.** An individual may qualify under this category if a member of the individual’s household has been diagnosed with COVID-19 “and the individual is unable to work as a result.”
- **The individual is providing care for a family or household member who has been diagnosed with COVID-19.** To qualify as providing care, an individual must be providing “ongoing and constant attention” such that the individual’s ability to perform other work function is severely limited. This category cannot apply if the family or household member is able to adequately care for himself or herself.
- **A child or other person in the household for whom the individual has primary caregiving responsibility is unable to attend school or another facility because it closed as a result of COVID-19, and the school or facility is required for the individual to work.** Even if an individual would otherwise be able to telework, he or she may fit this category if he or she must pay ongoing and constant attention to care for children whom the individual is required to stay at home to care for. The DOL further clarifies that a school is “not closed as a direct result of the COVID-19 public health emergency...after the date the school year was originally scheduled to end.” Although, presumably, it is possible that this category may continue to apply if alternative childcare facilities remain closed.
- **The individual is unable to reach his or her place of employment because of a quarantine.** An individual may fit this category if he or she is unable to make it to their place of employment “because doing so would require the violation of a state or municipal order restricting travel” in response to the COVID-19 pandemic.
- **The individual is unable to reach his or her place of employment because a health care provider has advised the individual to self-quarantine.** This includes when an individual has been in direct contact with another person who

has tested positive, and that individual has been advised by a health care provider to self-quarantine. It also includes individuals whose immune systems are compromised and are, therefore, advised to self-quarantine to avoid the greater-than-average health risks they might otherwise face.

- **The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency.** This category includes both individuals who are unable to reach their jobs because doing so would violate a state or municipal order restricting travel, and individuals who do not have a job because the employer rescinded the job offer as a direct result of the pandemic.
- **The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19.** An individual may qualify if his or her former head of household – the person who contributed the majority of financial support to the household – died as a result of COVID-19, and the financial support now falls on that individual.
- **The individual has to quit his or her job as a direct result of COVID-19.** The example provided by the DOL is a circumstance when “[a]n individual was diagnosed with COVID-19 by a qualified medical professional, and although the person no longer has COVID-19, the illness caused health complications that render the individual objectively unable to perform his or her essential job functions, with or without a reasonable accommodation.” The DOL explicitly states that “quitting work without good cause” does not qualify and will instead be considered “fraud.”
- **The individual’s place of employment is closed as a direct result of the COVID-19 public health emergency.** This includes when a business is shut down due to necessary social distancing protocols.

Benefits for individuals who qualify based on one of the above categories are available retroactively from the unemployment benefit week of February 2, 2020, through the benefit week of

December 26, 2020.

For more information concerning unemployment issues or the potential application of the CARES Act to your workforce please feel free to reach out to [Catherine Burgett](#), [Tessa Castner](#), or any member of the [Labor & Employment](#) practice group.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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