COVID-19 Stimulus Package

Impact on employee benefit and leave programs

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Today’s Presenters

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Agenda

Introduction
Legislation Update
Health Plan Provisions
Leave Provisions
Retirement Plan Provisions
Resources
Q&A
The Current Environment
COVID-19 Legislation Update
Federal Legislative Actions to Date

1.0 Coronavirus Preparedness and Response Supplemental Appropriations Act
The first coronavirus response law (PL 116-123) was passed on March 6, 2020 and provided $8 billion for health and international programs and made $7 billion in small business loans available.

2.0 Families First Coronavirus Responses Act (Families First Act)
The second law (PL 116-127) was passed on March 18, 2020 and provides paid leave, tax credits, expanded unemployment and nutrition assistance, and free testing.

3.0 The Coronavirus Aid, Relief, and Economic Security (CARES) Act
Enacted March 27, 2020.
More Legislation Expected…

- Hearing rumors about smaller efforts: 3.1? 3.25?
- Likelihood of 4.0 stimulus bill?
Health Provisions
Families First Act and CARES Act
COVID-19 Testing and Visits

Effective March 18, 2020

- Group health plans and insurers must cover:
  - Diagnostic tests that are FDA-approved and tests for which approval has been requested or tests developed by States;
  - Test administration; and
  - Items and services given during office / urgent care / telehealth / emergency room visits to the extent they relate to the evaluation or furnishing the test

- No deductibles, copays or coinsurance permitted

- No prior authorization or medical management requirements permitted

- No requirements to cover treatment under Federal law
  - Some state insurance laws are broader, but would not apply to self-insured plans
Families First Act and CARES Act

**COVID-19 Tests**

- If the plan (or insurer) has a negotiated rate with a diagnostic test provider that rate would apply.

- If the plan (or insurer) does not have a negotiated rate with the provider, the plan (or insurer) must reimburse the provider the cash price for such service as listed by the provider on a public website.
Families First Act and CARES Act
COVID-19 Test and Vaccine Reimbursement

- Providers of diagnostic tests must post their cash price on a public website – HHS may impose a civil monetary penalty for failure to do so.

- Group health plans must treat a future COVID-19 preventive service or vaccine as an ACA-required preventive service within 15 business days of the issuance of the USPSTF recommendation.
HDHP/HSAs
IRS Notice 2020-15

• High-Deductible Health Plans (HDHP) may cover COVID-19 testing and treatment before deductible met

• IRS rationale:
  – Unprecedented public health emergency
  – Need to eliminate potential administrative and financial barriers to testing and treatment
  – Vaccines = preventive care

• Broadly written to apply to any benefits related to COVID-19

High-Deductible Health Plans (HDHP) may cover telehealth or other remote care services before the deductible is met

- Effective March 27, 2020, and applicable to plan years beginning on or before December 31, 2021

So, if the plan offers telehealth, what is required?

- Telehealth related to COVID-19 testing must be paid without cost sharing during the public health emergency (Families First)
- Regular cost sharing may be applied to telehealth related to COVID-19 treatment and treatment for other conditions

Same telehealth rules apply to other health plans that are not HDHPs
HIPAA Guidance

Telemedicine

- HHS will not penalize health care providers that use telecommunication methods that may not fully comply with HIPAA
  - [https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html](https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html)
  - Makes it easier for individuals to seek virtual care from their current provider
  - Does not affect existing network telehealth programs

- Medicare has also expanded telehealth availability
HDHP/HSAs and Other Provisions

CARES Act

- ACA rule that required a prescription before plan could pay for over-the-counter drugs and medications repealed

- Permits menstrual care products may be treated as medical expenses eligible for reimbursement from HSAs, HRAs, and FSAs (for expenses after December 31, 2019)
Take Action

The Now
Notify employees/participants of benefit changes (medical, Rx, telehealth, etc.)
Communicate with employees about existing benefits available to them (e.g., EAP, behavioral health benefits)

The Soon
Consider whether additional benefit changes are advisable (e.g., more telehealth)

The Future
Amend plan documents
Leave Provisions
Families First Act
*Creates two new federal leave programs*

**Effective April 1, 2020 – December 31, 2020**

- Programs apply to most public employers and to private employers with fewer than 500 employees
- Employers must post notices concerning the new leave programs
- Group health plan benefits must continue during the leaves
Families First Act
Emergency Family and Medical Leave Expansion

• Employers must permit employees to take up to 12 weeks of leave if they are unable to work or telework due to a public health emergency and:
  – Must care for a child (under 18) if school or daycare closed or child care provider unavailable

• Applies to all workers who have been employed for at least 30 days

• First two weeks are unpaid; however, employee may choose to use paid sick leave or accrued paid time off. Additional 10 weeks are paid based on 2/3 pay, not to exceed $200/day, and $10,000 in the aggregate
Families First Act

Emergency Paid Sick Leave Act

- Employers must allow employees to take paid sick leave if unable to work or telework due to quarantine order, self-quarantine, experiencing symptoms and seeking diagnosis, or caregiver role related to COVID-19

- Paid sick leave is 80 hours for full-time employees, part-time may use average hours worked over two-week period
  - Immediately available to all employees no matter how long they have been employed
  - Employees may use paid sick leave before using any other leave to which they are entitled
  - Does not preempt state/local leave laws
Families First Act

Emergency Paid Sick Leave Act

Paid at 100% of pay or minimum wage, whichever is greater

- Only 2/3 if absence due to caregiver role

Maximum:

- $511/day and $5,110
- $200/day and $2,000 for caregiver leave

Other details:

- Cannot cash out
- No carryover
# Families First Act Leave Options

<table>
<thead>
<tr>
<th>Covered Employer</th>
<th>Private employers with fewer than 500 employees and governmental employers</th>
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<tbody>
<tr>
<td>Qualifying Event</td>
<td>Caring for children under 18 whose school is closed or caregiver unavailable</td>
</tr>
<tr>
<td>Quarantine order, self-quarantine, symptoms, carrying for children under 18 or another quarantined individual</td>
<td></td>
</tr>
<tr>
<td>Length of Leave</td>
<td>Up to 12 weeks</td>
</tr>
<tr>
<td>80 hours for full-time employees, part-time based on hours worked</td>
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<tr>
<td>Benefits</td>
<td>First two weeks unpaid (although paid sick leave would provide pay); maximum 10 weeks of 2/3 pay up to $200/day, $10,000 aggregate</td>
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<tr>
<td>Normal wage or minimum wage, whichever is greater, up to $5,110 for quarantine or illness; 2/3 wages for caregiving up to $2,000</td>
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<tr>
<td>Employer Tax Credit</td>
<td>Up to $200/day, $10,000 aggregate</td>
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<tr>
<td>Up to $511/day $5,110 aggregate for quarantine or illness; up to $200/day, $2,000 aggregate for caregiving</td>
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Multiemployer Leave Provisions

Contributing employers may provide leave directly and claim tax credit

- Plan may provide the leave if they choose to do so and if employer contributes based on the amount of leave to which employee is entitled

- Contributing employers with fewer than 50 employees may be able to document that they meet criteria for an exemption
Families First Act

Common Questions

What documentation is needed?

- Documentation must include a signed statement containing the employee’s name, date for which leave is requested, the COVID-19 qualifying reason for the leave, and a statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason

- Additional documentation is required based on the reason for the leave:
  - Identity of quarantine or isolation order
  - Name of health care provider advising to self-quarantine
  - Name of child and school or provider that is unavailable; and statement no other suitable person can take care of child
  - For health conditions, the normal FMLA certification rules apply

- Information must be retained for four years
Families First Act
Common Questions

I’m a private employer. How do I claim the payroll tax credit?

- Employers are entitled to receive refundable tax credits for paid sick leave and family leave payments
- Employers will report payments on their federal employment tax return, Form 941 Employer's Quarterly Federal Tax Return
- Taxes owed may be retained by employers, rather than depositing them with the IRS
Take Action

**The Now**
- Post the Notice
- Contact disability and leave administrators
- Develop procedures for employees to request leaves and document process
- Review applicable state or local leave laws

**The Soon**
- Prepare to offset leave against payroll tax obligation

**The Future**
- Review paid and unpaid leave policies to assure they are consistent with state and federal law and flexible enough for your enterprise
Families First Act

Guidance

General guidance, notices, and FAQs
https://www.dol.gov/agencies/whd/pandemic

Guidance on COVID-19-related tax credits for paid leave
Retirement Provisions
CARES Act
Retirement Plan Distributions

Allows for “coronavirus-related distributions” of up to $100,000 from 401(k), 403(b), and governmental 457(b) plans

• Otherwise applicable 10 percent early distribution penalty waived
• Income tax due on the distribution can be spread over three years
• Repayment permitted within three years as an eligible rollover distribution
CARES Act
Retirement Plan Distributions

Does not override in-service distributions restrictions for money purchase and defined benefit plans

- However, the tax relief (waive of penalty, payment of tax over three years and permitted repayment over three years) applies to coronavirus-related distributions otherwise allowed under such plans (i.e., upon termination or retirement).
CARES Act
Retirement Plan Distributions

Coronavirus-related distribution =

One made in 2020 to a participant who has tested positive for COVID-19, or whose spouse or dependent has tested positive for COVID-19

OR

To a participant who experiences one or more of a wide range of adverse financial consequences including being quarantined, furloughed or laid-off, having work hours reduced, or being unable to work due to lack of child care
CARES Act
Retirement Plan Loans

• For defined contribution and defined benefit plans that allow loans
• For participants who are eligible for coronavirus-related distributions and who take out loans within 180 days beginning March 27, 2020, the loan maximums have been increased to the lesser of $100,000 or 100% of the nonforfeitable accrued benefit
  – Up from the lesser of $50,000 or 50% of the participant’s nonforfeitable accrued benefit
CARES Act

Retirement Plan Loans

In addition, such participants with outstanding loans on or after March 27, 2020, would not have to make loan repayments for an additional year on any repayment due between March 27, 2020 and December 31, 2020.
CARES Act
Required Minimum Distributions

- Eliminates required minimum distributions in 2020 for participants in all DC plans (including profit sharing, money purchase, 401(k), 403(b) and governmental 457(b) plans).
  - Retroactively effective as of January 1, 2020

- Also eliminates the required minimum distribution for individuals who turned age 70½ in 2019 and who would otherwise have had to take the 2019 required beginning date distribution by April 1, 2020.
CARES Act
Plan Amendments

- Plan amendments related to the distribution and loan relief, as well as the waiver of 2020 calendar year required minimum distributions, are not required until the last day of the first plan year beginning on or after January 1, 2022 (2-year extension for governmental plan).

- However, the plan must operationally comply with the terms of the amendment prior to the adoption date.
CARES Act
Relief for Defined Benefit Plans

- Due date for defined benefit plan contributions normally due during 2020 delayed until December 31, 2020
  - Gives Congress time to consider the possibility of defined benefit plan funding reform, which may happen in a subsequent stimulus bill

- For benefit restrictions applicable to single-employer defined benefit plans, plan sponsors may elect to use the adjusted funding target attainment percentage (AFTAP) for the last plan year ending before January 1, 2020 as the AFTAP for plan years that include calendar year 2020.
Take Action

The Now

Make necessary immediate decisions

Communicate with employees

Remind employees of existing programs that can help them (e.g., financial hardship distributions)

The Soon

Implement plan changes

Consider CARES Act’s tax-advantaged student loan repayment provision

The Future

Amend your plan

Consider benefit offerings on financial literacy
For More Information

www.segalco.com/COVID-19
Questions?

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