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George Petersen Insurance Agency

News You Can Use

RESCUE LEGISLATION

COVID-19 Relief Bill Extends Unemployment Benefits, PPP

THE $900 billion COVID-19 relief bill, passed by Congress and signed into law on Dec. 27, includes a number of provisions that affect employers and their workers in terms of paid sick leave and Emergency Family and Medical Leave Act provisions.

The legislation also boosts unemployment benefits to out-of-work Americans, as well as reopening and expanding the Paycheck Protection Program that was introduced in March as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Paid sick and family medical leave

The new law did not extend the obligation for employers to provide emergency paid sick leave and expanded family and medical leave beyond Dec. 31, 2020, instead making it voluntary after that date.

From Jan. 1, employers can continue receiving tax credits if they provide emergency paid sick leave (EPSL) and emergency family medical leave (EFML) to employees for COVID-19-related purposes through March 31. Here are the caveats:

- Tax credits will be available for leave granted to employees who did not already exhaust 80 hours of EPSL or 12 weeks of EFML. For example, if a worker who was entitled to 80 hours of EPSL last year used 50 of those hours, they'd have 30 hours left to use between January 1 and March 31 this year.
- Employers must protect the job of any employee that is granted EPSL or EFML.

Other provisions

The legislation extends some CARES Act unemployment programs:

Unemployment benefits – The new law restores the federal increase for all unemployment benefits, which adds $300 to each week of benefits for up to 11 weeks through March 13.

Gig worker unemployment benefits extended – The law also extends the Pandemic Unemployment Assistance (PUA) program, which covers independent contractors and gig workers who would usually not be eligible for unemployment insurance payments.

This program (originally created by the CARES Act) is also extended to March 14, and then a three-week phase-out period will run until April 5.

The law increases the number of weeks gig workers are eligible for unemployment benefits by an 11 additional weeks, on top of the 39 weeks under the original program.

Extra weeks for those whose benefits ran out – The Pandemic Emergency Unemployment Compensation (PEUC) program, which provides 11 additional weeks of unemployment insurance benefits to individuals who use up all of their state unemployment benefits, will be extended until March 14.

The law increases the number of benefit weeks to 24, from 13 under the original version of the program. After March 14, this program will be phased out over three weeks until April 5.

More money – Taxpayers with annual incomes below $75,000 will receive a $600 check, plus another $600 per dependent child. Payments are phased out for people with incomes in excess of $75,000.

Paycheck Protection Program (PPP) part II – The law sets aside $284 billion for forgivable loans to struggling businesses as part of a second PPP. Companies that receive funds will have to use the money on payroll and other specific expenses if they want the loan to be forgiven.

Depending on the loan, employers will have either eight or 24 weeks after receiving the loan to spend it on approved expenses.

But PPP part 2 has additional prerequisites that differ from the original. It lowers the employee threshold for businesses to 300 employees or fewer (down from 500). Additionally, the maximum loan is now $2 million, compared

See "Paycheck" on page 2

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If you have a question about any article in this newsletter or coverage questions, contact your broker at one of our offices.

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COMPLIANCE

Top 10 Business Laws and Regulations for 2021

EVERY YEAR starts with a bevy of new laws and regulations affecting employers and business in California, and many of the new rules this time around are an outgrowth of the COVID-19 pandemic and its effects on workers.

Employers in the year ahead have a number of changes they will have to contend with, some of which were enacted near the end of 2020 as emergency regulations or legislation.

The following are the top 10 laws and regulations affecting employers in 2021.

1. COVID-19 workers' compensation rules

AB 1159, which took effect in September, is an expansive law requiring that workers' compensation benefits be extended so that any employee who reports to a workplace and contracts COVID-19 is presumed to have contracted it at work, making them eligible for workers' comp benefits.

But the law also imposes sweeping reporting rules for employers that have outbreaks in their workplaces (it's considered an outbreak if 4% of an employer's workers test positive for COVID-19). Under new rules by the Workers' Compensation Insurance Rating Bureau, though, COVID-19 illness claims will not count against employers' experience modifiers (X-Mods).

Under the law, when reporting a COVID-19 claim employers must provide the following information:

- The date the worker tested positive,
- The workplace address of the worker during the 14 days before the positive test, and
- The highest number of employees who reported to work in the 45 days preceding the last day the employee worked in the workplace.

The above must be reported for each worker COVID-19 case. The law sunsets on Jan. 1, 2023.

2. Cal/OSHA COVID-19 regulations

Cal/OSHA in November enacted emergency regulations that impose strict rules on employers to implement safeguards in order to reduce the risk of COVID-19 spreading in the workplace.

The sweeping rules require employers to take a number of steps to ensure the safety of their workers, including creating a COVID-19 prevention plan, requiring masks, social distancing and other ways to reduce the likelihood of virus spread.

Employers must investigate coronavirus cases in their workplace. If a worker contracts COVID-19, they must notify all employees who may have been exposed, within one day. Workers who may have been exposed must be offered COVID-19 testing at no cost.

Workplace Outbreaks (defined as 3 or more laboratory confirmed cases in two weeks or less of employees not in the same household) are required to be reported to the local health department.

3. Cal/OSHA authority on stop work orders

Before Cal/OSHA came out with its emergency COVID-19 regulations, Governor Newsom signed into law AB 685, which adds to Cal/OSHA's responsibilites in policing COVID-19 protections.

The law expands the agency's authority to issue stop-work orders to workplaces it deems a COVID-19 "imminent hazard."

Many in the regulated community say the new law is duplicative and conflicts with the emergency regulations, and that it will confuse employers.

The law also requires employers to notify a number of parties (state agencies, local authorities, employees, contractors and more) if they have coronavirus infections in any of their facilities.

Notice to employees must include information regarding benefits the employee may be eligible for under federal, state and local laws, including workers' comp, COVID-19-related leave, company sick leave, state-mandated leave, and more.

See 'AB 5' on page 3

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Paycheck Protection Program and FSA Rollover Expanded

to $10 million under the original PPP.

Qualifying expenses are also different in this version, which means any business thinking about applying needs to read all the fine print.

FSA rollover expanded – For years, flexible spending arrangement rules included a "use it or lose it" provision, meaning whatever funds an employee didn't use in their FSA during a year would be forfeited. However, the rules did allow employers to let employees carry over $550 to the next year, as long as they used those funds by March 15 of each year.

The COVID-19 relief law eliminates the health FSA carryover limit, allowing employees to carry over any unused amounts from the 2020 or 2021 plan year to the next plan year, and also permits dependent care FSA rollovers for those years, which are not permitted under current law. ❖

Click here for more information and a complete list of provisions.

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AB 5 Gets an Overhaul, Exempts Many Professions

4. Expansion of California Family Rights Act

SB 1383, which took effect Jan. 1, 2021, expands the California Family Rights Act to cover even small employers – those with five or more staff.

The CFRA, which requires covered employers to provide up to 12 weeks of unpaid leave a year for family and medical leave purposes, had until now applied to employers with 50 or more workers.

The new law also expands the scope of "family members" for whom employees can take leave to help care for them to include siblings, grandparents, grandchildren and domestic partners. Also, the law expands the definition of "child" to include all adult children.

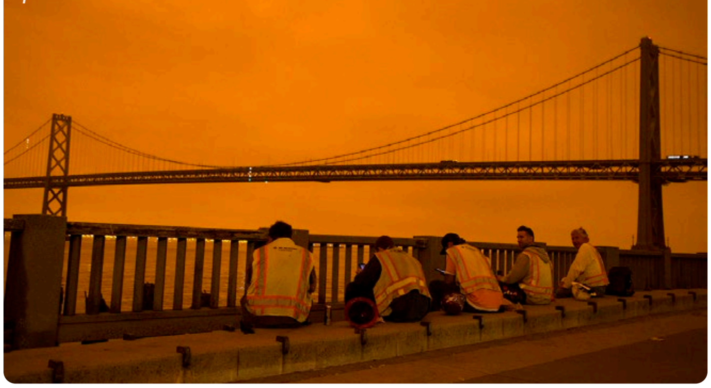
5. Independent contractor law tweaked

AB 2257, which took effect in September 2020, revises the controversial AB 5 independent contractor law by adding a number of exceptions for certain classes of workers.

AB 5 created a new standard for discerning what workers should be classified as employees or independent contractors and it swept up a number of professions in its net, causing some consternation and hand-wringing among both employers of those contractors and the independent contractors themselves.

The below occupations are only exempt from the Dynamex ABC Test, they will still be subject to the Borello Test that has been used in the past to determine if the individual qualifies as an independent contractor or an employee:

- Graphic designers
- Web designers
- Consultants
- Freelance writers
- Translators
- Editors and content contributors.



WORKING IN SMOKE: *Employers will need to take steps to protect outdoor workers if wildfire smoke exceeds certain levels.*

6. Wildfire smoke safety regulations

With wildfires becoming the new normal in California, Cal/OSHA has set about working on permanent wildfire smoke regulations to protect outdoor workers when the air worsens during major events.

An emergency regulation is set to expire Jan. 31, 2021, at which time Cal/OSHA hopes to introduce the permanent replacement that would require employers to protect their outdoor workers from smoke if the Air Quality Index (AQI) exceeds 150.

Workplace safety pros expect the permanent regs to mostly mirror the emergency rules that have been in place since August 2019.

The regulations apply when the AQI for airborne particulate matter 2.5 microns (PM2.5) or smaller is 151 or greater in an area where employees are working outdoors.

The permanent regulations are expected to cover training and methods for protecting workers (like moving them inside or providing N95 respirators during high-smoke conditions).

7. New classification for telecommuters

California employers have a new workers' compensation class code to assign to employees who work from home, an outgrowth of the coronavirus pandemic which thrust so many people into working from home.

The new class code, (Clerical Telecommuter Employees – N.O.C.), applies to employees that work from home or "away from any location of their employer," doing office clerical work.

This class code, available on policies effective Jan. 1 or later, is to be used for employees which would have been classified under class code 8810, Office Clerical employees, that are doing work at home 50% or more of the time.

8. Sick leave and kin care law

Under Labor Code, an employee was entitled to use up to half of their annual accrued sick leave to care for a family member, but not the full amount of sick leave they have.

AB 2017 amends Labor Code Section 233 to give employees the sole discretion to use as much of their sick leave as they want to care for a family member, with no approval from their employer required. The law took effect. Jan. 1.

A "family member" is defined as the employee's child, parent or guardian, spouse or domestic partner, grandparent, grandchild or sibling.

9. Data protections strengthened further

California voters last year passed Prop. 24, which established a new law: the California Privacy Rights Act of 2020. The CPRA amends and strengthens the state's current data protection privacy law, the California Consumer Privacy Act (CCPA), which governs how organizations have to protect personal data that they collect.

The CPRA gives additional rights to consumers and places extra obligations on businesses. It provides additional protections for sensitive personal information, expands the CCPA's opt-out rights to include new types of information-sharing, and requires businesses to provide additional mechanisms for individuals to access, correct or delete data, with a particular focus on information used by automated decision-making systems.

While the law doesn't take full effect until Jan. 1, 2023, it has a 12-month look-back period. Privacy experts advise companies to start working on their data protection infrastructure in 2021 in order to be ready for this expansive new law.

10. State minimum wage increases

As of Jan. 1, California's minimum wage increased to $14 for employers with 26 or more employees, and to $13 for those with 25 or fewer employees. Local minimum wages may also have risen. Check your local rules for other minimum wage requirements. ❖

COVERAGE TRENDS

How COVID-19 Will Change Employee Benefits

THE COVID-19 pandemic has impacted businesses and other organizations in multiple ways. Lost revenue and the overnight change to remote workforces, among other things, have caused significant changes to operations and finances.

A new report shows that there will be long-term effects on employee benefit programs as well.

Health insurers are forecasting continued cost increases that dwarf general inflation rates, according to the report by Mercer Marsh Benefits. Most expect 2021 medical cost inflation to come in at 4.3%, slightly higher than in 2020. They anticipate the trend of escalating costs to continue this year and going forward.

The culprits? The high costs of diagnosing, caring for and treating COVID-19 patients. A survey of studies released in September showed that half of all COVID-19 patients who were admitted to an intensive care unit were there more than seven days. ICU patients who need ventilators also cost more to treat – 59% more per day, according to one report.

A new landscape for plan outlays

Like last year, 2021 will be a different one for group health plan outlays, as a number of novel factors take center stage, including:

A rebound in elective diagnostics and treatments – Mercer Marsh predicts a rebound in some elective treatments when it is safe to resume these procedures in 2021. On the other hand, some elective procedures that were postponed will never be rescheduled as people take a different non-surgical course and ideally recover from their ailment, or use lower cost-of-care virtual services.

Delays leading to greater need for care – Delays in treatment for serious conditions, such as cancer, and exacerbation of other chronic conditions, like diabetes, may require more invasive and expensive care. Many people have postponed these treatments during the pandemic and doing so may end up increasing the cost of the treatments if their conditions have deteriorated.

New claims linked to remote working – The report predicts a higher incidence of conditions relating to remote working and sedentary lifestyle, including musculoskeletal and mental health issues. According to the journal *The Lancet Psychiatry*, "A major adverse consequence of the COVID-19 pandemic is likely to be increased social isolation and loneliness … which are strongly associated with anxiety, depression, self-harm, and suicide attempts across the lifespan."

Coronavirus-specific claims – Sixty-eight percent of insurers expect to see higher outlays due to the cost of COVID-19-related diagnostics, care and treatment. There is also the issue of paying for a vaccine as they become more widely available.

Ongoing COVID-19 concerns – The long-term physical and mental health effects on survivors of COVID-19 are largely unknown. Some coronavirus "long-haulers," who have lingering symptoms and effects that can last for months, may require additional treatment and doctors' visits as they try to cope.

Increases to unit prices – Prices for a wide range of services are increasing as demand rises and/or to offset revenue lost due to COVID-19. Mercer Marsh found that 68% of insurers expect costs will rise in 2021 because of health providers charging more to offset revenue lost due to the cornavirus.

New PPE costs – The unit cost of care is also being driven up by the cost of personal protective equipment, which is being added to many treatment bills.

The takeaway

In the years ahead, employee benefits will change in terms of the services they provide, the treatments they cover, and the way they will be delivered.

More doctor's visits will be done via tablet computers. Coverage for preventative medicine will increase to drive better and less expensive health outcomes. But even with that, a vicious pandemic coupled with uninvited changes in lifestyles will likely drive up the cost of those benefits for years to come. ❖

COVERAGE TRANSITION

Home Business Not Covered by Homeowner's Policy

WITH MANY people working from home or having been laid off due to the coronavirus pandemic, many Americans now have or are planning to start a home-based business.

But will your homeowner's policy cover the risks of your business? In nearly every case, the answer is no.

While some insurers will offer special endorsements, such as one to run a child-care operation from home, fewer and fewer companies have been offering them.

Even with a special endorsement, policies may provide limited coverage for business property. The bottom line is, nearly all homeowner's policies exclude business operations and not having proper coverage in place can leave you with uninsured exposure.

This is why you need separate commercial insurance to cover your business risks.

The case for coverage

A business owner's policy protects the unique interests and property of a business owner. This package policy includes nearly all of the coverage you need.

Business insurance covers you in situations where someone takes action for information on your website, or if someone is injured by the product, or service, you provide.

Off-premises injury can occur when someone trips on or is injured by property you have taken into the field, such as to a trade show or if you are working at a customer's location.

Additionally, business policies include coverage for personal injury lawsuits, should someone take legal action against you for things like libel or slander.

Business insurance will also cover theft of or damage to equipment, furniture, inventory and any other physical assets.

A business policy usually covers loss of income as a result of a covered loss. Policies may also cover valuable papers, damage to property of others, property coverage off-premises and more.

If you are providing consulting or other non-tangible professional services, you may also need a professional liability policy. In addition, if you have any employees, you are usually required by law to get worker's compensation insurance.

You'll also need a commercial auto policy if you have a business vehicle.

The takeaway

Hoping that your homeowner's policy is going to cover you in the event of a claim will leave you frustrated if your business experiences a loss.

Businesses have a higher risk than a homeowner's policy allows for, and homeowner's claims adjusters will deny coverage for business-related claims. Call us today to explore your business insurance needs and options. ❖

ALERT: INSURANCE SCAM CALLS RISE

In the later part of 2020, spam calls, e-mails and text messages have increased dramatically.

We have received multiple reports from clients receiving phone calls or e-mails in regard to their insurance, questioning if they are legitimate. Some of the correspondence could be your insurance company reaching out directly, due to an increase in virtual inspection.

If you are concerned or unsure if you should provide any personal information, please feel free to contact us directly to assist.