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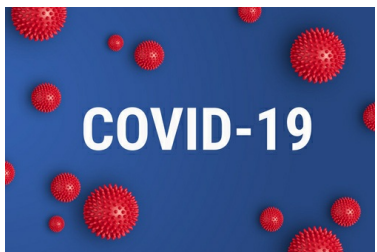
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Covid-19 Legislative Update & What to do if an Employee is Ill

SBA Issues New Guidance on Loans: Last month, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), which included appropriating \$350 billion in funding for the Payment Protection Program, designed to provide low-interest, forgivable loans to small businesses to cover payroll expenses and some operating costs during the Covid-19 pandemic. The program opened in early April, and by last Friday (April 17), the funds had been depleted. In the week since, the news cycle as seen reports that banks and lenders had prioritized large corporations rather than processing the loans on a first-come-first-served basis as intended; and that large, publicly-traded corporations had received massive loans under the program. On Tuesday, the United States Senate unanimously approved an additional \$484 billion in appropriations in response to the pandemic, which includes replenishing the PPP funds with an additional \$310 billion and an additional \$60 billion for SBA disaster assistance loans and grants. The House passed the bill yesterday afternoon, sending it to the White House for signature.

In anticipation of the bill becoming law, the SBA today issued updated guidance on the program which is designed in part to prevent large corporations from receiving the funds. Under the new guidance (available [here](#)) the SBA clarified that while the CARES Act suspended the ordinary requirement that loan applicants are unable to obtain credit elsewhere, borrowers still must make a good-faith certification that their PPP loan request is necessary, including the certification that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the

Applicant.” When making this certification, applicants are required to consider their current business activity and their ability to obtain other sources of liquidity (including access to capital markets) in a manner that is not “significantly detrimental to the business.” The SBA has advised that it is “unlikely that a public company with substantial market value . . . will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification.” In light of this updated guidance, the SBA will deem any borrower that applied for a PPP loan before April 23 but repays the loan in full by May 7, 2020, to have made the certification in good faith.

What to do if an employee is ill: OSHA has issued [guidance](#) on preparing workplaces for the virus, including promoting frequent and thorough hand washing and minimizing person-to-person contact as much as possible. While these preventative measures are helpful, Minnesota has in all likelihood not yet reached its peak of Covid-19 (moreover, for states that have reached peak, it remains to be seen if they have passed *the* peak, or merely *a* peak). And some reports have suggested that it is a question of when—as opposed to whether—people will contract the virus. While it is everyone’s hope that you, your companies, and your employees remain healthy, there are some things to consider if you have an employee who has become symptomatic:

- If an employee displays symptoms or suspects that they are infected, they should be sent home and directed to seek medical assistance.
- If you are notified that an employee is confirmed to have contracted Covid-19, you should inform any other employees that may have come in contact with the person of their possible exposure to the virus at work. You may (and should) ask the employee to identify any individuals who have worked in close proximity (~6 feet) of the individual for an extended period of time (10-30 minutes or more) during the 48-hour period before onset of symptoms. Ideally, this notification will be done by phone or video conference. If you can’t reach them, a email should be sent with high importance and a note in the subject line to call attention to the e-mail. Time is of the essence in this communication.
- Importantly, you should *not* disclose the identity of the employee who has tested positive, although we recognize that for smaller employees, the identity may otherwise be known.
- An employee who has tested positive for Covid-19 should not return to work until released by their medical provider. Any employees who worked closely with that employee should also be sent home for the recommend 14-day quarantine period. If any employee becomes symptomatic, they should remain home for at least seven days from the onset of symptoms, or unless released by a medical professional.
- In all cases, practice sympathy and empathy. Your employees are likely anxious (to put it mildly) about their risk of infection and the possibility that they have spread the virus to loved ones or coworkers.

Limited Return to Work for Minnesota Companies Yesterday afternoon, Governor Walz issued [Executive Order 20-40](#), which allows for certain non-critical sector employers to reopen, subject to limitations. Under the new order, industrial businesses, manufacturing businesses, and office-based businesses

whose work is primarily not customer facing may reopen on Monday, April 27. Businesses looking to reopen must develop a plan that implements OSHA Standards and MDH and CDC Guidelines, including (1) still requires workers who are able to do so; (2) establish policies and procedures, including health screenings, that prevent sick workers from entering the place of business; (3) establish social-distancing policies and procedures; (4) establish hygiene and source-control policies; and (5) establish cleaning and disinfection protocols. The plan must be signed and certified by senior management and a copy must be given, in writing, to all employees and be prominently posted in a shared space in the workplace. While the plan does not need to be submitted to the State for approval, businesses must make their plans available to regulatory authorities and public safety officers, including the Department of Labor and Industry, on request. A template plan is available [here](#). Importantly—and bearing repeating—workers who are able to work from home **must still do so**.

Our daily lives right now are a roller coaster of news, events, and emotions. On Wednesday, Minnesota Governor Tim Walz [announced](#) that the state—working with the Mayo Clinic and the University of Minnesota—will soon have the ability and capacity to test tens of thousands of people per day for the coronavirus, both on a diagnostic level and an antibody level, a major breakthrough on the state’s efforts to reopen following the public health emergency. The same day, the University of Louisville [announced](#) that it had developed a technology that may be able to block the virus from infecting human cells. Yesterday, Governor Walz announced that Minnesota schools would remain on distance-learning for the remainder of the 2019-2020 Academic Year. We know that it can feel like there is too much news and contradicting information out there, but you can know that the attorneys and staff at Madigan, Dahl & Harlan are still here and are still committed to serving our clients. This age of quarantine and social distancing will not be the *new* normal; it is simply the *now* normal. Stay safe, and know that we are here to help.

NOTE/DISCLAIMER: Nothing contained in this presentation is intended to serve as or constitutes legal advice. For specific answers to your questions, please contact Madigan, Dahl & Harlan, PA.

Madigan, Dahl & Harlan, P.A.
Campbell Mithun Tower
Suite 3150
222 South 9th Street
Minneapolis, MN 55402
Main: (612) 604-2000
email@mdh-law.com
www.mdh-law.com

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