

Blog Post

New Unemployment Obligations for Georgia Employers

March 27, 2020

Employers faced with layoffs and furloughs need to pay close attention to state unemployment laws, which are in flux and in some instances may impose extraordinary burdens on employers. For example, Georgia has extended unemployment benefits and now requires employers to file for benefits on behalf of some employees impacted by COVID-19 as a result of certain changes to state unemployment compensation regulations promulgated on March 19 and March 25.

Georgia Emergency Rule extends unemployment qualification to persons involuntarily unemployed due to COVID-19 pandemic.

In response to the COVID-19 public health emergency, the Georgia Department of Labor adopted certain Emergency Rules, including Emergency Rule 300-2-9-0.9, which provides that individuals unable to work due to the COVID-19 public health emergency and who have an expectation of returning to work when the emergency ceases shall be considered involuntarily unemployed through no fault of their own. This rule applies to all claims filed on or after March 14, 2020, by persons who are:

- (a) Quarantined or self-quarantined on the advice of a licensed medical professional;

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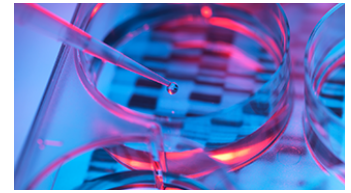
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(b) Sixty (60) or more years of age;

(c) With a recognized medical condition making that individual particularly susceptible to COVID-19;

(d) Who is a caregiver and resides with someone identified in part (b) or (c) of this subparagraph;
or

(e) Who is a custodial parent or legal guardian of a minor whose school is closed due to COVID-19 and is unable to secure child care.



Employers are required to file partial claims on behalf of their full-time employees whenever it is necessary to temporarily reduce work hours or there is no work available for a short period.

Employees who are working all hours available (i.e., part time if available) and who did not work during a particular week or weeks for the sole reason that there is a lack of work with the employer are qualified for the partial unemployment payments in Georgia. However, under new regulations, only the employer may submit an application for such benefits. The required DOL 408 form must be submitted online by the employer after the week for which benefits are sought (i.e., in arrears).

Any employer found to be in violation of this rule will be required to reimburse the Georgia Department of Labor for the full amount of unemployment insurance benefits paid to the employee.

The Form 408 is completed in part by the employer and in part by the employee and requires the employee to certify that “I was not working due to lack of work only.” Accordingly, employees who are not working because their children are not in school or not in daycare do not qualify for partial unemployment. Partial unemployment is also not

available when an employee is out of work due to disability, worker's compensation, or medical leave.

States around the country are taking action to make it easier for employees to apply for unemployment benefits during the COVID-19 crisis. Employers should constantly monitor the laws of any state where they must lay off or furlough workers.

Akerman continues to follow COVID-19 developments as they impact the workplace and will provide frequent updates on those developments. For assistance addressing issues in your workplace, contact your Akerman attorney.

This information is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.