

# New Jersey Legislature Establishes Temporary Lost Wage Unemployment Program in Wake of COVID-19 Pandemic

By James M. McDonnell and Justin B. Cutlip

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Passing by a total vote of 99-0 in the Legislature, New Jersey passed the Temporary Lost Wage Unemployment Program to provide benefits to workers impacted by the COVID-19 pandemic. The Legislature considered and passed the Program in lieu of a more expansive proposal that would have amended existing Paid Sick Leave, Temporary Disability, and Family Leave Laws to provide similar relief for workers. The Program will provide workers direct benefits and establish a fund to reimburse employers who pay workers for certain time missed due to specific COVID-19-related reasons.

The Program appears to be a welcome and less burdensome compromise to provide benefits to workers during the pandemic. Additionally, individuals who receive unemployment compensation benefits are not eligible under the Program.

## Employee Benefits

The Program establishes a \$10 million fund to fully compensate workers at their average weekly rate from the past calendar year for the following COVID-19-related absences:

1. To care for a family member;
2. Due to the worker's own illness; or
3. Due to the closure of school or a childcare facility.

The Program further provides the Commissioner of the New Jersey Department of Labor and Workforce Development (NJDO) the discretion to determine additional qualifying absences which may be covered for COVID-19-related reasons.

To claim benefits for actual lost wages from the Program, the employee must submit an application to the NJDOL that must include documentation regarding the actual lost wages. Furthermore, the applicant must certify "that the individual does not have fully paid leave available for the individual's absence." Impacted workers must submit any claim for benefits within three months after the termination of the current State of Emergency by the Governor or President, whichever is later.

## Employer Reimbursement

Furthermore, the Program establishes a separate \$10 million fund to reimburse employers who pay wages to workers ordered to quarantine by a licensed healthcare practitioner due to COVID-19. The reimbursements, however, do not extend to non-quarantine related COVID-19 absences that a worker may receive directly from the Program. To claim benefits, the employer must similarly submit documentation regarding the amounts paid to the worker for the time during the quarantine. The same deadlines for employer reimbursement benefits apply.

The Act takes effect immediately upon the Governor's signature. The Act does not contain any specific notice requirements; however, the NJDOL may amend intake procedures to include inquiries regarding benefit applicant eligibility for funds through the Program. Given the volume of claims to the state's unemployment fund, the establishment of the Program should provide more immediate relief to employees impacted by COVID-19. To the extent you have any questions, Jackson Lewis attorneys stand ready to assist.

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