

Arizona Expands Access to Unemployment Benefits; New Executive Order Adds Restrictions in COVID-19 Emergency

By Jeffrey W. Toppel

April 1, 2020

Arizona has enacted new law to expand access to unemployment benefits during the coronavirus (COVID-19) pandemic. In addition, the Governor has issued “Emergency Order to Stay at Home Except for Essential Business and Services.” The state also is encouraging employers to participate in its Workshare Program.

Unemployment Benefits

On March 27, 2020, Arizona Governor Doug Ducey signed legislation (S.B. 1694) that expands access to Unemployment Insurance (UI) benefits for Arizona workers affected by COVID-19 retroactive to March 10, 2020. The new law follows through on anticipated changes to the Arizona Department of Economic Security (DES) eligibility requirements for UI benefits, as allowed by the U.S. Department of Labor (DOL) guidance (issued on March 12, 2020) and the Governor’s similar Executive Order (issued on March 20, 2020).

While UI benefits typically are available only to individuals who have lost their job and meet strict requirements (A.R.S. § 23-771), the new law waives the requirements relating to work search and the one-week waiting period to receive benefits. It expands benefit eligibility to the following groups:

- Individuals who are not receiving wages as a result of their workplace closing due to COVID-19 (even if the individual is furloughed and intends to go back to work when the business reopens);
- Individuals who are following directives to self-quarantine and intend to return to work (after they have exhausted any accrued paid sick leave and any paid leave applicable under the Families First Coronavirus Response Act (FFCRA)); and
- Individuals who leave employment to care for a family member.

The DES may not consider the benefits as a charge against an employer’s account for benefits that resulted from alternative benefit eligibility for individuals affected by COVID-19.

Executive Order

The new law comes as Arizona faces stricter limitations on activities during the COVID-19 emergency. On March 30, 2020, Governor Ducey issued an Executive Order (“Stay home, Stay healthy, Stay connected”) directing Arizonians to limit their time away from their place of residence, except for the following circumstances:

- To conduct or participate in essential activities;
- For employment, to volunteer or participate in essential functions;
- To utilize any services or products provided by essential business services; and
- For employment if as a sole proprietor or family owned business, work is conducted in a separate office space from the home and the business is not open to serve the public.

While stopping short of a “shelter in place” order that some other states have issued, Governor Ducey’s latest Executive Order, effective beginning at 5:00 p.m. on March 31, 2020, promotes increased physical distancing. The Executive Order also follows earlier guidance, issued by Governor Ducey on March 23, 2020, clarifying businesses and operations deemed “essential” during the COVID-19 emergency. Under these Executive Orders, essential activities include:

- Obtaining necessary supplies and services for family and pets, such as groceries, supplies, and equipment needed to work or attend class from home;
- Engaging in activities essential for health and safety, including seeking medical or emergency services and obtaining medical supplies or medication;
- Caring for a family member, friend, or pet in another household;

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COVID-19

- Engaging in outdoor exercise activities, such as walking, hiking, running, biking, or golfing, so long as appropriate physical distancing practices are observed;
- Attending work or conducting essential services; and
- Engaging in constitutionally protected activities such as speech and religion, voting, and legal or court process, so long as appropriate physical distancing is maintained to the extent feasible.

For more on the guidance regarding businesses and services deemed essential, see our article, [Arizona Expands Unemployment Insurance, Provides Guidance on Essential Services in Response to COVID-19](#).

Finally, Governor Ducey also announced on March 30, 2020, a cooperative agreement with the state's banks to protect small businesses and families from eviction and foreclosure. Under the agreement, banks are suspending evictions and foreclosures for at least 60 days, and this period may be extended for the duration of Arizona's emergency declaration. Many banks have adopted a payment deferral program for business loans under guidance from banking regulatory agencies.

Shared Work Program

For employers faced with a reduction-in-force that choose to participate in the Arizona Shared Work Program, the new legislation allows the DES to adjust eligibility requirements during the COVID-19 federal emergency declaration period.

The Shared Work Program allows an employer to divide the available work or hours among a specified group of employees in lieu of a layoff. It also allows affected employees to receive a portion of their UI benefits while working reduced hours. Normally, the maximum reduction in hours to remain eligible for the Shared Work Program is capped at 40 percent; the new legislation increases that ceiling to as much as an 80-percent reduction.

If you need guidance on the new law or in handling the complicated issues pertaining to COVID-19, please contact a Jackson Lewis attorney.

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