

To: Clients
From: Wohlner Kaplon Cutler Halford & Rosenfeld
RE: COVID-19
Date: March 14, 2020

Many clients have been in touch with our office requesting information on unemployment benefits available to employees who are laid off or who are placed on reduced hours. We have prepared this memorandum for clients which summarizes available unemployment benefits and procedures for submitting claims. In addition, we have expanded the memorandum to also address benefits available for employees and/or family members who are diagnosed with COVID-19. Currently, there are discussions for emergency legislation/executive orders to provide additional benefits to affected workers. We will update you as new information on benefits becomes available. Please call our office if you have any questions concerning the benefits addressed in this memorandum or have any employment related COVID-19 questions.

I. Employer Offers Reduced Hours and Employee Voluntarily Accepts Reduction in Hours

If there's good cause for a member to voluntarily accept a reduction in hours, then they may apply for state unemployment benefits. Because there is arguably good cause for accepting the reduction in hours due to the undue risk of COVID-19, employees would be entitled to unemployment benefits for their acceptance of reduction in hours offered by their employers (22 CCR § 1256-15). See Section III below on how to apply for Unemployment Insurance benefits.

II. Employer Imposed Reduction in Hours

If members face a reduction in hours imposed or mandated by employers, there are several state benefits that a member can apply for. Below are summaries of the different state sponsored benefits:

- 1) **Unemployment Insurance**: For All Employees with employer imposed reduction in hours –
 - a. Workers can file an Unemployment Insurance (“UI”) Claim, which provides partial wage replacement benefit payments to workers who lose their job or have their hours reduced, through no fault of their own. Workers temporarily unemployed due to COVID-19 and expected to return to work with their employer within a few weeks are NOT required to actively seek work each week. However, they MUST remain able and available and ready to work during their unemployment for each week of benefits claimed and meet all other eligibility criteria. Eligible individuals can receive benefits that range from \$40-\$450 per week.

- i. “Partial Claim”: Employees can make a Partial Claim for UI if the claimant is partially employed (meaning the hours have been reduced below full time, but not reduced to zero) and receives reduced earnings in any week.

- 2) **UI Work Sharing Program**: For Employees with employers participating in the UI Work Sharing Program –
 - a. Your employer can apply for and get approved to participate in the UI Work Sharing Program which would qualify you for partial UI benefits. You must get Work Sharing claim forms from your employer. Employers must complete the employer section, and then give you the form to complete and sign.
 - b. The amount you receive from state unemployment benefits depends on the rate of reduction in your wages and hours from your employer.

- 3) **Disability Insurance**: For Sick or Quarantined Workers –
 - a. Workers can file a Disability Insurance (DI) claim. DI provides short-term benefit payments to eligible workers who have a full or partial loss of wages due to a non-work related illness, injury, or pregnancy.
 - b. Benefit amounts are approximately 60-70% of wages (depending on income) and range from \$50-\$1,300 a week.

- 4) **Paid Family Leave**: For Employees Caring for Ill or Quarantined Family Members with COVID-19 –
 - a. PFL provides up to six weeks of benefit payments to eligible workers who have a full or partial loss of wages because they need time off work to care for a seriously ill family member or to bond with a new child. Benefit amounts are approximately 60-70% of wages (depending on income) and range from \$50-\$1,300 a week.
 - i. Note: The employer may require the employee to use up to 2 weeks of earned but unused vacation leave before receiving benefits. Un Ins C §3303.1.

- 5) **Workers’ Compensation Benefits**: For Employees Exposed to and Contracted COVID-19 During Their Regular Course of Work –

- a. If workers are unable to do their usual job because they were exposed to and contracted COVID-19 during the regular course of their work, they may be eligible for workers' compensation benefits.
- b. Benefits include temporary disability (TD) payments, which begin when your doctor says you can't do your usual work for more than three days or you are hospitalized overnight. You may be entitled to TD for up to 104 weeks. TD stops when either you return to work, your doctor releases you for work, or your doctor says your illness has improved as much as it's going to.
- c. TD generally pays two-thirds of the gross wages you lose while you are recovering from a work-related illness or injury, up to maximum weekly amount set by law. In addition, eligible employees are entitled to medical treatment and additional payments if a doctor determines you suffered a permanent disability because of the illness.

III. HOW TO FILE FOR BENEFITS

Generally, the employee is responsible for filing and claiming benefits related to a reduction in hours due to COVID-19. Below are the steps to file benefits:

1) UNEMPLOYMENT INSURANCE ("UI")

- a. **Whose responsibility is it to file a claim for UI?**
 - i. It is the employee's responsibility to file a UI claim.
- b. **How to file a claim:**
 - i. You can file a claim online, by phone, by fax or mail. More information on how to file can be found at: https://edd.ca.gov/Unemployment/Filing_a_Claim.htm.
- c. **When to file a claim:**
 - i. You should file your UI claim in the first week that you lose your job or have your hours reduced. Your claim begins on the Sunday of the week you submitted your application. If you previously filed a UI claim within the last 52 weeks and have not exhausted your benefits, you must reopen your claim to resume benefits. Important: Waiting to file can delay your benefits.
- d. **What information do you need to provide for your UI claim?**
 - i. Last employer information including company name, supervisor's name, address (mailing and physical location) and phone number
 - ii. Last date worked and the reason you are no longer working

- iii. Gross earnings in the last week you worked, beginning with Sunday and ending with your last day of work
- iv. Information on all employers you worked for during the past 18 months, including name, address (mailing and physical location), the dates of employment, gross wages earned, hours worked per week, hourly rate of pay, and the reason you are no longer working.
- v. Citizenship status, and, if you are not a U.S. citizen, information from your employment authorization document.

e. Does your employer need to do anything to qualify your UI claim?

- i. The employer will receive a Notice of Unemployment Insurance Claim when you file a UI claim. The employer is required to submit any relevant information related to your UI claim.
- ii. For a partial claim due to reduced hours, your employer must certify 1) the amount of reduced earnings and 2) that you are expected to return to work.

f. Is there a waiting period for benefits?

- i. Yes, generally there is a required one (1) week unpaid waiting period.

2) UI WORK SHARING BENEFITS

a. Whose responsibility is it to file a claim for UI Work Sharing Benefits?

- i. The Special Claims Office in Sacramento sends the employer a letter of approval to participate, one mail claim packet for each participating employee, and a ten-week supply of weekly certification forms for each employee. During the weeks of reduced hours and wages, the employer issues the certification forms to the participating employees.
- ii. Either you or your employer can mail your Work Sharing claim forms. Forms must be postmarked within 14 days of when the form was issued.

b. How to file a claim:

- i. You must get Work Sharing claim forms from your employer. Employers must complete the employer section, and then give you the form to complete and sign.
- ii. The form needs to be sent to:
 - EDD Special Claims Office, PO Box 419076, Rancho Cordova, CA 95741
- iii. Additional Information can be found below:
 - https://www.edd.ca.gov/unemployment/FAQ_-_Work_Sharing_Information_For_Employees.htm
 - https://www.edd.ca.gov/pdf_pub_ctr/de8714bb.pdf

c. When to file a claim:

- i. Forms must be postmarked within 14 days of when the form was issued.

d. What are the employee requirements to participate in Work Sharing?

- i. Be regularly employed by an employer whose Work Sharing Plan Application has been approved by the EDD.
 - ii. Be a part of your employer's permanent regular workforce and not a leased, intermittent, temporary, or seasonal employee.
 - iii. Have qualifying wages in the base quarters used to establish a regular California Unemployment Insurance (UI) claim.
 - iv. Your reduction in hours and wages must be at least 10 percent and no more than 60 percent.
 - v. Have completed a normal work week (with no hour or wage reductions) before participating in Work Sharing.
- e. **Does your employer need to do anything to qualify your UI Work Sharing claim?**
- i. Employers must first be approved to participate in the UI Work Share Program.
 - ii. Once approved, employers must complete the employer section of the claim forms that are subsequently distributed to qualified employees.
- f. **Is there a waiting period for benefits?**
- i. Yes, like regular Unemployment Insurance (UI) customers, Work Sharing participants must serve a one-week unpaid waiting period. The waiting period is usually the first eligible week claimed after the Work Sharing UI claim is filed.

3) **DISABILITY INSURANCE ("DI")**

- a. **Whose responsibility is it to file a claim for DI?**
- i. It is the employee's responsibility to file a DI claim.
- b. **How to file a claim:**
- i. You may submit a *Claim for Disability Insurance (DI) Benefits* (DE 2501) using SDI Online or by mailing a paper application. More information on how to file can be found at: https://www.edd.ca.gov/disability/DI_Claim_Process.htm.
- c. **When to file a claim:**
- i. You must submit your claim no earlier than nine days after the first day your disability begins, but no later than 49 days after your disability begins, or your claim is considered to be a late claim and you may lose benefits.
- d. **What information do you need to provide for your DI claim?**
- i. First and last name.
 - ii. Social Security number.
 - iii. California Driver License number.

- iv. Most current employer’s business name, phone number, and mailing address (as stated on your W-2 or paystub).
- v. Last date you worked your regular duties and hours or date you began working at less than full duty or modified duty.
- vi. Any wages you received or expect to receive from your employer (sick leave, paid-time-off (PTO), vacation pay, annual leave, and wages earned after you stopped working).
- vii. Any workers’ compensation claim information, if applicable.

e. Does your employer need to do anything to qualify your DI claim?

- i. Employers must complete and return a *Notice to Employer of Disability Insurance Claim Filed* within 2 working days. However, medical information is confidential and will not be shared with your employer.

f. Does your medical provider need to complete anything to qualify your DI claim?

- i. Your claim is not complete until your medical provider completes Part B - Physician/Practitioner’s Certificate of the DE 2501. If your form is not properly completed, the EDD will not process your claim until all the information is obtained.

g. Is there a waiting period for benefits?

- i. Yes, generally the first seven days of every claim is a non-payable waiting period.

4) PAID FAMILY LEAVE (“PFL”)

a. Whose responsibility is it to file a claim for PFL?

- i. It is the employee’s responsibility to file a PFL claim.

b. How to file a claim:

- i. You may submit a *Claim for Paid Family Leave (PFL) Benefits* (DE 2501F) using SDI Online or by mailing a paper application. More information can be found at: https://www.edd.ca.gov/disability/PFL_Claim_Process.htm
- ii. To file a PFL Care claim online you must complete and submit sections one through five of the SDI Online application, then print a *Claim for Paid Family Leave (PFL) Benefits* (DE 2501FC) from the link on your confirmation page.
- iii. To submit a paper DE 2501F care claim by mail, complete Part A – Statement of Claimant on the form.

c. When to file a claim:

- i. Submit your claim no earlier than the first day your family leave begins, but no later than 41 days after your family leave begins, or your claim is considered to be a late claim and you may lose benefits.

- d. **What information do you need to provide for your PFL claim?**
 - i. First and last name.
 - ii. Social Security number.
 - iii. California Driver License number.
 - iv. Most current employer’s business name, phone number, and mailing address (as stated on your W-2 or paystub).
 - v. Any wages you received or expect to receive from your employer (sick leave, paid-time-off (PTO), vacation pay, annual leave, and wages earned after you stopped working).
 - vi. Any workers’ compensation claim information, if applicable.
- e. **Does your employer need to do anything to qualify your PFL claim?**
 - i. Employers must complete and return a *Notice to Employer of Disability Insurance Claim Filed* within 2 working days. However, medical information is confidential and will not be shared with your employer.
- f. **Does your family member need to complete anything to qualify your PFL claim?**
 - i. If filing a claim online, your family member you’re caring for must complete and sign the Care Recipient’s Authorization for Disclosure of Personal Health Information and Part C – Statement of Care Recipient.
 - ii. If filing a claim by mail, have your family member you’re caring for complete the Care Recipient’s Authorization for Disclosure of Personal Health Information and Part C - Statement of Care Recipient.
- g. **Does your family member’s medical provider need to complete anything to qualify your PFL claim?**
 - i. If filing a claim online, the care recipient’s medical provider must complete and sign Part D – Physician/Practitioner’s Certificate. Then submit the supporting documentation.
 - ii. If filing a claim by mail, the care recipient’s medical provider must complete Part D - Physician/Practitioner’s Certification.
- h. **Is there a waiting period for benefits?**
 - i. Yes, generally the first seven days of every claim is a non-payable waiting period.

5) **WORKERS COMPENSATION (“WC”)**

- a. **Who’s responsibility is it to file a claim for WC?**
 - i. It is ultimately the employee’s responsibility to file a WC claim.
 - ii. However, your employer must give or mail you a claim form within one working day after learning about your injury or illness.
- b. **How to file a claim:**

- i. If your employer does not give you a claim form, you can find a claim form online at: <https://www.dir.ca.gov/dwc/DWCForm1.pdf>
 - ii. Complete only the “employee” section of the form and send it to your employer right away. Be sure to sign and date the claim form and keep a copy for your records. Return the claim form to your employer in person or by mail. If you mail the claim form, use certified mail — return receipt requested — so you have a record of the date it was mailed and the date it was received. If you don’t return the completed form to your employer you may risk your right to benefits.
 - iii. More information is available at: <https://www.dir.ca.gov/dwc/FileAClaim.htm>
- c. **When to file a claim:**
 - i. Right away. You should receive the claim form within one working day from your employer.
- d. **What information do you need to provide for your WC claim?**
 - i. Name
 - ii. Home Address
 - iii. Date and Time of Injury
 - iv. Address and description of where injury happened
 - v. Description of injury and part of body affected
 - vi. Social security number
- e. **Does your employer need to do anything to qualify your WC claim?**
 - i. Your employer should fill out the “employer” section and forward the completed claim form to the insurance company. You should receive a copy of the completed claim form from your employer. If you don’t, request a copy and keep it for your records.
- f. **Is there a waiting period for benefits?**
 - i. TD payments begin when your doctor says you can't do your usual work for more than three days or you get hospitalized overnight.

IV. **ADDITIONAL INFORMATION**

Please be advised that guidelines, information, and procedures are changing daily. You can find updates and additional information at the following websites:

- https://edd.ca.gov/about_edd/coronavirus-2019.htm)
- <https://www.labor.ca.gov/Coronavirus2019/>
- <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.12.20-EO-N-25-20-COVID-19.pdf>