PIA|SD

VISUAL MEDIA ALLIANCE | INSURANCE SERVICES

Printing Industries Association of San Diego + VMA Insurance Services
10650 Treena Street, Ste. 103, San Diego, CA 92131

For more information on workers' comp, health or voluntary benefits programs, contact PIASD + VMA Insurance Services.
Visit piasdinsurance.com for details.

RISK*report*

PIA|SD VISUAL MEDIA ALLIANCE | INSURANCE SERVICES

JUNE - AUGUST 2020

ABOUT US
The *Risk Report* is provided to members of the Printing Industries Association of San Diego, Inc. (PIASD) who participate in our commercial insurance program. Our services provide a full suite of insurance programs including property and liability, commercial auto, management liability, professional liability (errors & omissions), EPL and cyber liability. PIASD partners with Visual Media Alliance (VMA) to provide the most comprehensive selection of carriers and rates, and exemplary customer service.

VICE PRESIDENT, VMA INSURANCE SERVICES
David Katz

PRESIDENT & CEO, PIASD
Karen Fulton

SALES MANAGER
James Villanueva

COMMERCIAL INSURANCE CSRs
Crystal Carlson, Mary Fernandez, and Renee Prescott

PIASDINSURANCE.COM
858.800.6900
INFO@PIASD.ORG

FSAs, HSAs Now Open to Non-Prescription Meds

The recently enacted $2 trillion stimulus law aimed at providing financial assistance during the coronavirus outbreak also includes a key change on how health savings accounts and flexible spending accounts can be used.

The Coronavirus Aid, Recover and Economic Stabilization Act, or CARES Act for short, reverses an Affordable Care Act rule that barred policyholders from using funds in HSAs and FSAs to pay for over-the-counter medications.

HSAs and FSAs allow people to set aside pre-tax funds for medical costs, medical out-of-pocket and copays, as well as for the cost of pharmaceuticals. The moneys in these funds are usually deposited from the employee's paycheck before taxes, thereby reducing their tax burden.

RISK report

PIA|SD

VISUAL MEDIA ALLIANCE | INSURANCE SERVICES

Delivering essential employee benefit and commercial insurance information to customers and our members

JUNE - AUGUST 2020

WORKERS' COMPENSATION

Workers Get Presumption for COVID-19

California Gov. Gavin Newsom has issued an executive order requiring that workers who either test positive for COVID-19 or are diagnosed by a physician as having coronavirus are eligible for workers' compensation benefits.

The order means that it will automatically be presumed that the employee contracted the virus on the job if they test positive or receive a diagnosis within 14 days of their last shift.

Additionally, the employee must have been working at a worksite and not from home to qualify, and the diagnosis must be confirmed by testing within 30 days of the original diagnosis.

The order covers any worker that reports to a worksite, including "essential workers," which include those in health care, emergency services, trucking, construction, food, warehousing, delivery, and more.

Workers' comp benefits include partial wage replacement for any missed time from work, as well as covering all related medical costs and death benefits for their family should the unthinkable happen.

If the employer believes an employee didn't contract the virus at work, they will have the burden of proving the individual contracted it elsewhere, which would be a difficult endeavor.

The rule is temporary and will cover cases dating back to March 19. It will sunset on July 6 (60 days after the announcement was made on May 6).

NO ADVERSE X-MOD EFFECTS

While the order will make it easier for essential workers to file workers' comp claims, employers do not have to worry about the effects on their workers' compensation claims experience.

That's because the Workers' Compensation Insurance Rating Bureau has proposed its own rules that would exempt any COVID-19 claims from an employer's claims history, so that it would not affect their experience modifier (X-Mod).

That means if an employer has any workers who file COVID-19 claims, their premiums would not rise due to those claims.

The Department of Insurance will hold a hearing on the proposal on June 1 and it's likely, according to industry observers, that it will be approved. It too will sunset 30 days after the shelter-at-place order is lifted.

The Rating Bureau estimates that the cost of COVID-19 workers' compensation claims in California could range from $2.2 billion to $33.6 billion annually. A mid-range estimate of $11.2 billion would equate to more than 60% of all California workers' comp annual claims before the pandemic.

CONTACT US TODAY

Get a quote on workers' comp insurance, business insurance, or health insurance.

James Villanueva
CA License #0B90122
562.204.4564
james@piasd.org

Karen Fulton
CA License #OMO1573
858.800.6900
karen@piasd.org

CORONAVIRUS

Ten Employee Lawsuit Risks During Outbreak

The novel coronavirus that broke out in the winter has caused immeasurable suffering, both physical and economic.

For employers struggling to stay in business, this is a fraught time where mistakes in managing their workforces could lead to employee lawsuits. Here are 10 potential trouble spots to watch for.

1. Workplace safety – Businesses that still have employees working on-site run the risk that a single infected worker may send the virus ripping through the entire workforce.

While workers' compensation laws may prevent employees from suing, their family members who become ill or suffer through a worker's illness face no such constraints.

2. Sick time and paid leave – Congress enacted the Families First Coronavirus Response Act in March, guaranteeing full-time employees of small businesses 80 hours of sick leave (part-timers get a prorated amount.)

Mistakes in administering these benefits could prompt lawsuits.

3. Workplace discrimination – Because the coronavirus originated in China, there have been reports of Asian-Americans being targets of racist actions. Employers must take care to avoid the appearance of making workplace decisions based even partly on employees' race.

4. Americans with Disabilities Act – The ADA prohibits discrimination against disabled individuals and requires employers to make reasonable accommodations for these workers.

Employees who become ill from COVID-19 (the illness caused by the virus) may suffer after-effects that include trouble breathing, speaking and working at their former pace. Employers must accommodate these workers to the extent that is practical.

5. Wage and hour violations – Non-exempt employees working remotely may be working more than their regular hours, missing rest and meal breaks, and using their own equipment.

Employers must keep careful records, reimburse employees for their use of personal equipment where warranted, and remind employees to take mandatory breaks.

6. Battered retirement plans – Stock markets have cratered since the beginning of the year, taking retirement account balances down with them.

Questions may be asked about whether fund managers did enough to limit the damage. Employees who are not satisfied with the answers may go to court.

7. Health information privacy – Employee health information privacy is protected by law. Employers must ensure that the records of infected employees cannot be accessed by unauthorized individuals within and outside the company.

8. Union contracts – Collective bargaining agreements may contain provisions that go beyond federal requirements for breaks, paid leave, layoff notices, and workplace safety.

Employers must keep their CBAs in mind and work with their unions to avoid contract violations.

9. Disparate impact from layoffs – If layoffs are necessary, employers must take a thoughtful approach when deciding which employees to part company with.

An appearance of singling out older workers or other protected classes under discrimination laws could invite lawsuits.

10. WARN Act – The Workers Adjustment and Retraining Notification Act requires some employers to provide at least 60 days' notice before layoffs. Many businesses' revenues dropped so quickly that they were unable to provide that much notice.

A FINAL THOUGHT

The pandemic is a crisis that few businesses foresaw. The effects, including the litigation, may haunt them for a long time to come.

RELIEF MEASURES

CARES Act Boosts Unemployment Benefits for Laid-off Staff

After the sudden economic disruption brought on by the COVID-19 outbreak, more than 290 million Americans are under shelter-in-place orders and some 36 million individuals have filed for unemployment.

To counter the blow to their income, Congress passed and President Trump signed the $2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act, which in part allocates around $250 billion in unemployment benefits for the workers who have lost their jobs due to the coronavirus pandemic.

The CARES Act extends unemployment insurance benefits to workers who are not eligible for additional benefits at the state level, as long as they lost their jobs due to the outbreak.

The new law also extends benefits to part-time employees, freelancers, independent contractors, gig workers and self-employed individuals. While gig and self-employed workers are newly eligible for unemployment benefits, they may not qualify if they don't have the proper work and pay documentation.

The unemployment benefits under the CARES Act also apply to furloughed employees who file unemployment claims with the state.

Workers in California will be able to collect both state unemployment and federal unemployment through the CARES Act, which was designed to augment any unemployment benefits workers may receive in your state.

The Pandemic Emergency Compensation program funded by the CARES Act will provide

an additional $600 per week on top of state unemployment benefits through July 31. It will also extend state-level unemployment insurance by an additional 13 weeks. For example, whereas most of California's unemployment benefits last 26 weeks, the bill extends state benefits to 39 weeks. The extended benefits will last through Dec. 31.

Another part of the CARES Act is the Pandemic Unemployment Assistance program, which will provide up to 39 weeks of benefits for those who are not typically eligible for state benefits, such as people who are self-employed or people who did not work enough last year to qualify for unemployment benefits.

California typically has a one-week "waiting period," before benefits start, so often the person won't be paid unemployment the first week they are off work.

This law pushes states to waive that period by paying the full cost of that week of benefits as soon as they become eligible.

The CARES Act effectively waives work history requirements and allows any workers who usually wouldn't qualify to receive unemployment benefits.

OSHA Won't Require COVID-19 Cases to Be Recorded

OSHA announced on April 13 that it won't be enforcing COVID-19 recordkeeping requirements.

The announcement reverses an earlier decision requiring that transmission of the virus in the workplace, unlike the flu or common cold, would be considered a recordable injury for the sake of OSHA reporting.

The agency said it would only require the reporting of COVID-19 cases for non-frontline employers if there was objective evidence that a case may be work-related without an alternative explanation and the evidence was reasonably evident to the employer.

It said the new order would allow companies to "focus on implementing good hygiene practices rather than "making difficult work-relatedness decisions."

Some employers are still required to record COVID-19 cases among their staff, including health care entities, emergency response outfits and correctional institutions.