

RISQ Review

PROPERTY & CASUALTY INSURANCE

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Extended Reporting Periods

“Maintaining adequate insurance coverage is an important practice within any organization. A key element of ensuring a robust insurance program is to take steps to avoid experiencing potential gaps in coverage during policy transition periods.

One common cause of such coverage gaps stems from claims that are reported after a policy expires. Fortunately, that’s where an extended reporting period (ERP) can help. Review the following guidance for more information on ERPs and when to consider implementing this offering.” [Full Article](#)

Zywave

DOL Amends Employee Tip Regulations

“This new final rule prohibits employers from keeping their employees’ tips and specifically prohibits managers and supervisors from keeping any portion of employee tips, including tips from a tip pool.

In addition, the rule limits an employer’s ability to implement mandatory tip pools that include non-tipped employees and incorporates a new recordkeeping requirement for employers that do not take a tip credit but collect employees’ tips to operate a mandatory tip pool.” [Full Article](#)

Zywave



EEOC Releases Updated Guidance on COVID-19 Vaccinations and Employment Laws

With the increasing distribution of the COVID-19 vaccine, there have been a number about of questions concerning employment laws in relation to the vaccine. On December 16th, the Equal Employment Opportunity Commission (EEOC) released a guide that addresses the responsibilities of employers and rights of employees. [This document](#) includes information on requiring employees to stay home, asking if employees have been diagnosed with COVID, reasonable accommodation, requiring the vaccine, and more. [Full Article](#)

Equal Employment Opportunity Commission

RISQ Review

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Will Biden Ban Non-Competes?

“President-elect Joe Biden has issued a “Plan for Strengthening Worker Organizing, Collective Bargaining, and Unions” on his website, and it includes an interesting statement about what his incoming administration purportedly intends to do about non-compete and no-poach agreements: Eliminate non-compete clauses and no-poaching agreements that hinder the ability of employees to seek higher wages, better benefits, and working conditions by changing employers.” [Full Article](#)

Seyfarth Shaw

EEOC Reports Record Recovery and Decrease in Pending Charges

“The Equal Employment Opportunity Commission (“EEOC” or the “Agency”) recently released its annual financial report for the 2020 fiscal year. Relevant highlights from this report include discussion of a research study was commenced to determine whether there is a correlation between unemployment during economic downturns related to COVID-19 and EEOC charge filings the EEOC’s continued focus on Alternative Dispute Resolution, and a noted reduction in the inventory of pending private sector charges.” [Full Article](#)

Jackson Lewis



Claiming Payroll Tax Credits for Paid Leave Under the Families First Coronavirus Response Act

“The paid leave requirements under the Families First Coronavirus Response Act (FFCRA) will end on December 31, but employers should take steps now to claim the associated tax credits for any required leave they provided to their employees.” [Full Article](#)

Akerman

DOL Expands Religious Exemption for Federal Contractors

“More faith-based federal contractors could be shielded from anti-discrimination suits under the Department of Labor’s new rule. The rule gives organizations a clearer picture of their protections under the law. The Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) expanded a religious exemption from anti-discrimination laws for federal contractors. The new rule applies the exemption to employers that “are organized for religious purpose, hold themselves out to the public as carrying out a religious purpose, and engage in activity consistent with and in furtherance of that religious purpose.” The rule takes effect on Jan. 8, 2021.” [Full Article](#)

Phelps



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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

IRS Explains 'Qualified Health Plan Expenses' for Purposes of FFCRA Tax Credit

“The IRS explains that the amount of qualified health plan expenses taken into account in determining the credits generally includes both the portion of the cost paid by the employer and the portion of the cost paid by the employee through pre-tax salary reduction contributions, but not amounts that the employee paid with after-tax contributions.” [Full Article](#)

The Wagner Law Group



Final Transparency Rules Mean More Disclosures by Plan Sponsors

“For plan years beginning January 1, 2022, health plans and insurers must disclose three separate files on their websites that include detailed pricing information for all covered items and services under the applicable plan. The first file must show negotiated rates for all in-network covered items and services. The second file must show information regarding charges from, and payments to, out-of-network providers. The third file must provide historical information regarding in-network prescription drug pricing by pharmacy location.” [Full Article](#)

Graydon

Health Plan Fiduciaries Breached ERISA's Fiduciary Duties by Failing to Remit Participant Contributions

“A Virginia district court has held that an employer and its owner violated their ERISA fiduciary duties by: [1] Failing to remit participant contributions that were withheld under an ERISA health plan to the plan's insurer. [2] Using the participant contributions, which were plan assets, to pay the employer's other operating expenses. [3] Not informing the plaintiff-participant that her health plan coverage had lapsed due to their failure to remit the withheld contributions.” [Full Article](#)

Thomson Reuters Practical Law



Miscommunication Between Employer and Insurer About Employee's Medical Leave Causes Loss of Coverage -- and a Lawsuit

“The CARES Act requires group health plans to provide first-dollar coverage of COVID-19 vaccines within 15 business days after the vaccine receives an 'A' or 'B' rating from the United States Preventive Services Task Force or receives a recommendation from the Advisory Committee on Immunization Practices of the CDC. Group health plans and insurers must pay the full cost of COVID-19 vaccines regardless of whether administered in- or out-of-network.” [Full Article](#)

Thomson Reuters / EBI

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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

COVID-19: Vaccines for Everyone! Wait, Not So Fast. Considerations for Health Care and Other Employers When Evaluating Mandatory COVID-19 Vaccination Programs

“Following earlier announcements as to the efficacy of vaccine trials by pharmaceutical companies Pfizer, Inc. (Pfizer) and Moderna, Inc. on November 20, 2020, Pfizer and BioNTech submitted applications for emergency use authorization to the U.S. Food and Drug Administration (FDA) for their COVID-19 vaccinations.” [Full Article](#)

K&L Gates LLP

IRS and Treasury Department Release Guidance on the Deductibility of Eligible Expenses under the Paycheck Protection Program

“On November 18, 2020, the IRS and Treasury Department released Revenue Ruling 2020-27 (the Revenue Ruling) stating that, if a taxpayer received a PPP Loan (defined below) and paid or incurred Eligible Expenses (defined below), the taxpayer may not deduct such expenses in the year paid or incurred if, at the end of the year, the taxpayer has a reasonable expectation that the PPP Loan will be forgiven on the basis of such Eligible Expenses.”

[Full Article](#)

Bracewell LLP



Understanding Immigration Changes Imposed During the COVID Pandemic

“Two presidential proclamations were issued that restrict U.S. entry and consular visa processing abroad until December 31, 2020.” [Full Article](#)

Holland & Hart LLP



OSHA Reiterates Stance on Cloth Face Coverings and PPE

“In a statement released November 18, 2020, the Occupational Safety & Health Administration (OSHA) reiterated its long-held stance that standard cloth face coverings – those now used daily by millions of Americans, both in and out of the workplace – do not constitute “personal protective equipment” (PPE) subject to OSHA’s regulations and standards.” [Full Article](#)

Frost Brown Todd LLC

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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Employee's Own Perception of Her Performance Is Not Determinative, and What Is An Adverse Employment Action, Anyway?

"The U.S. Court of Appeals for the Fifth Circuit reaffirmed the principle that an employee's subjective perception of her own performance does not support a discrimination claim, while also providing guidance on the types of actions that are or are not adverse employment actions necessary to establish a discrimination claim." [Full Article](#)

Shawe Rosenthal

Has the COVID-19 14-Day Quarantine Period Been Shortened?

"By now, employers likely have heard the news that the Centers for Disease Control and Prevention (CDC) has reduced the length of time that individuals should quarantine after an exposure to COVID-19. The old adage "Don't believe everything you read" turns out to be true in this case. Although the CDC has stated that shortened quarantine periods may be an option in certain circumstances, the agency continues to recommend quarantining the full 14 days, absent local health authorities determining that a shorter period is appropriate." [Full Article](#)

Jackson Lewis



EEOC Updates Religious Discrimination Guidance

"Over the past 10 years, there have been several significant changes related to how federal courts handle alleged religious discrimination." [Full Article](#)

Nexsen Pruet LLC



CDC Alters Critical Infrastructure Personnel Guidance and Recommends New Testing Strategies

"In its most recent COVIDView weekly update, the U.S. Centers for Disease Control and Prevention (CDC) reported that levels of COVID-19 'virus circulation and associated illnesses' have been rising nationally since September 2020." [Full Article](#)

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

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CALIFORNIA



Cal/OSHA Emergency Workplace COVID-19 Regulation: 10 Frequently Asked Questions

“On November 19, 2020, the California Occupational Safety and Health Standards Board voted and approved an emergency COVID-19 regulation governing employers and workplaces.” [Full Article](#)

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

CALIFORNIA



Asked and Answered: Updates on California’s Pay Data Reporting Law

“California’s Department of Fair Employment and Housing released 16 new FAQs regarding the recently enacted Pay Data Reporting Law, previously summarized here.” [Full Article](#)

Seyfarth Shaw LLP

NEW YORK



New York Amends Mini-WARN Law to Require New Notifications

“On November 11, 2020, Governor Cuomo signed amendments to the New York WARN law, which requires additional notifications to government officials in the event of a WARN event.” [Full Article](#)

Davis Wright Tremaine LLP

PENNSYLVANIA



Pennsylvania Court Affirms Unemployment Benefits for Medical Marijuana User

“A Pennsylvania Appeals Court affirmed an order granting unemployment benefits to a medical marijuana user who was terminated by his employer for a positive drug test.” [Full Article](#)

Jackson Lewis P.C.

PENNSYLVANIA



Pennsylvania Employers May Need to Revise Policies and Practices Within the Workplace in Response to New Mitigation Order by Governor Wolf

“On November 23, 2020, Governor Tom Wolf issued the Order of the Governor of the Commonwealth of Pennsylvania for Mitigation, Enforcement and Immunity Protections, which establishes various mitigation measures that Pennsylvania businesses must implement effective November 27, 2020.” [Full Article](#)

Reed Smith LLP

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STATE & INTERNATIONAL COMPLIANCE

WISCONSIN

WISCONSIN



1848

Wisconsin Sets New Deadline For Employers

“Under 2019 Wis. Act 185 (published on April 16, 2020), employers can request charging relief from unemployment insurance benefits for initial claims related to the COVID-19 public health emergency Governor Evers declared on March 12, 2020 by Executive Order 72. On November 30, 2020, the Wisconsin Department of Workforce Development (DWD) issued a new emergency rule addressing the process for employers to request this relief.” [Full Article](#)

Michael Best

MARYLAND



Maryland's Montgomery County

“The original Montgomery County ordinance, which took effect on January 1, 2015, prohibits employers with at least 15 full-time employees in Montgomery County from conducting a criminal background check on a job applicant, or otherwise inquiring about the criminal or arrest history of an applicant, prior to the completion of a first interview. The new amendment significantly expands this restriction and covers smaller employers.” [Full Article](#)

Jackson Lewis P.C.

VIRGINIA



Virginia Joins States That Restrict

“Virginia recently joined a growing list of states that have passed legislation prohibiting employers from enforcing non-compete agreements against low-wage employees. Illinois, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, and Washington have already enacted similar legislation.” [Full Article](#)

Crowell Moring

ILLINOIS



ILLINOIS

FDA Approval of COVID-19 Vaccines on the Horizon: Workers' Compensation Considerations for Illinois Employers

“In Illinois, an injury is compensable where it arises out of and in the course of employment. An injury can be found to “arise out of” the employment when it is the result of an activity the employer instructed the employee to perform. An employee may have a stronger claim for compensability where vaccination is mandatory or in fields where the risk of contracting the virus is higher—such as healthcare settings, janitorial services, manufacturing, grocery stores, or other essential operations.” [Full Article](#)

Goldberg Segalla