COVID-19: Human Resources-Related Issues for Nonprofits to Consider

Tuesday, March 24, 2020
Noon – 1:00 p.m. (PT)

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COVID-19: Human Resources-Related Issues for Nonprofits to Consider

An NAO "Ask The Experts" Session for YOU – Our Members!

Welcome yet-to-be NAO members.
Today’s Moderator and Subject Matter Expert

Moderator

Jim White
NAO’s Executive Director

Subject Matter Expert

Jenna Reed
VP of HR Services & General Counsel, Cascade Employers Association

NAO Business Verified Affiliate Members
Agenda

• Introductions
• Overview of current challenges for nonprofits
• Human resources
• Facilitated Q&A session
• Wrap up
Jenna Reed
VP of HR Services &
General Counsel, Cascade
Employers Association
COVID-19 – Ask An HR Expert

BY: JENNA REED – VP OF HR SERVICES AND GENERAL COUNSEL

CURRENT AS OF MARCH 24, 2020
Our most asked questions are about:

ALL of the new leaves
- Emergency Family and Medical Leave
- Emergency Paid Sick Leave
- Expansion of the Oregon Family Leave Act
- How these interact with other leaves like Oregon Sick Leave and company provided leave

Tax credits and how those will work

Unemployment benefits

Layoffs, shutdowns and alternatives to layoffs

Visit: cascadeemployers.com for our COVID-19 Employer Resource Center
Emergency Paid Sick Leave (EPSL)

Provides all employees with up to 80 hours paid sick time when unable to work, including remotely for:

- Employee is subject to a federal, state, or local quarantine or isolation related to COVID-19;
- Employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- Employee is caring for an individual who is subject to one of the two reasons above; (Note: This reason is not just limited to family members. It specifically states to care for an “individual.”)
- Employee is caring for their son or daughter if the school or place of care has been closed, or the childcare provider is unavailable, due to COVID-19 precautions;
- Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor.
EPSL and Pay

For the following reasons employers must pay employees at their regular rate of pay, which is capped at $511 per day and $5,110 in aggregate.

- Employee is subject to a federal, state, or local quarantine or isolation related to COVID-19;
- Employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

For the following reasons, employers must pay two-thirds of employee’s regular rate of pay, which is capped at $200 per day and $2,000 in the aggregate.

- Employee is caring for an individual who is subject to one of the two reasons above; (Note: This reason is not just limited to family members. It specifically states to care for an “individual.”)
- Employee is caring for their son or daughter if the school or place of care has been closed, or the childcare provider is unavailable, due to COVID-19 precautions;
- Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor.
Emergency Family and Medical Leave (EFML)

Provides 12 weeks of job-protected leave only when:

- An employee is unable to work or telework due to the need to care for children under the age of 18 when school or place of care is closed, or child care is unavailable due to a public health emergency, which COVID-19 qualifies as.
EMFL – Coverage and Eligibility

Effective Date
- Effective April 02, 2020 until December 31, 2020.

Eligible Employers
- Private-sector employers with 500 or fewer employees.
- Public agencies of any size.
- Employers with less than 50 employees may be exempt if can prove complying with EFML would jeopardize the viability of the business. Secretary of Labor has ability to authorize this exemption.

Eligible Employees
- Any full-time or part-time employee who has been employed for at least 30 days prior to request.
EMFL and Pay

First 10 days are unpaid

- Employees can use up to 80 hours of Emergency Paid Sick Leave (EPSL) during the first 10 days if they have that time available.
- If an employee has exhausted EPSL employers can require employees to use accrued time off provided by the company during this time, including Oregon Sick Leave.

After 10 days

- Must provide paid leave at no less than two-thirds of an employee’s regular rate of pay. Capped at $200 per day and $10,000 in aggregate.
- Can allow employee’s to use their available company-provided paid time off benefits to supplement the difference.
Oregon Family Leave Act – COVID-19 Related

OFLA only applies to:
- Employers with 25 or more employees in Oregon and
- Employees that have worked for their employer for 180 days and average 25 hours per week.

COVID-19 Related Qualifying Absences

- **Effective March 18, 2020 through September 13, 2020:** Emergency care for their child whose school or place of care has been closed in conjunction with a public statewide health emergency, which COVID-19 qualifies as.

- **Serious Health Condition of the employee or their family member:** If an employee is diagnosed with a confirmed case of COVID-19 or the employee needs to provide care for a family member diagnosed with COVID-19, it may still qualify OFLA as a serious health condition for themselves or their family member.

- **Sick Child:** If an employee’s child is sick (not a serious health condition) and cannot go to school or daycare.

- **Bereavement:** Up to two weeks to deal with the death of a family member including attending the funeral or alternative, making necessary arrangements or grieving.
Oregon Sick Leave – COVID-19 Related

Employers required to allow employees to accrue, use, up to 40 hours of paid sick leave (unpaid if fewer than 10 employees or fewer than 6 employees in Portland) per year for the following reasons (COVID-19 related):

- Your own illness, injury, or health condition, including time off for medical diagnosis, care, treatment, and preventive care;

- Care for your family member with an illness, injury, or health condition, including time off for medical diagnosis, care, treatment, and preventive care;

- Reasons covered under OFLA

- As a result of a public health emergency including:
  - Closure of the employee’s workplace or school of the employee’s child’s school or care,
  - A determination by a lawful public health authority or a health care provider that the presence of the employee or the family member of the employee in the community would jeopardize the health of others; or
  - The exclusion of the employee from workplace under any law or rule that requires the employer to exclude the employee from the workplace for health reasons

- Cannot require OSL use instead of EPSL. OSL would be available subsequent to EPSL.
Tax Credits
Tax Credits - EFML

- For EFML, the amount of qualified family leave wages taken into account for each employee is capped at $200 per day and $10,000 for all calendar quarters.
- If the credit exceeds the employer’s total liability under section 3111(a) for all employees for any calendar quarter, the excess credit will be refunded to the employer.
- No payroll tax liability applied.
Tax Credits - EPSL

- For EPSL, a refundable tax credit for employers equal to 100 percent of qualified paid sick leave wages required to be paid by the Emergency Paid Sick Leave Act that are paid by an employer for each calendar quarter.
- The tax credit is allowed against the tax imposed by section 3111(a) of the Internal Revenue Code (the employer portion of Social Security taxes).
- No payroll tax liability applied.
The FFCRA credit also includes the employer’s cost of providing health care coverage to employees during a leave under EFML and EPSL.

This applies to the amount the employer paid toward maintaining health plan coverage of an employee on such a paid leave which was excluded from the employee’s gross income for federal income tax purposes.

The cost of the group health plan coverage for an employee on such a leave is added to the wages paid for the qualifying paid leave.
Tax Credits – Compliance

- Requirements subject to 30-day non-enforcement period for good faith compliance efforts.
- To take immediate advantage of the paid leave credits, businesses can retain and access funds that they would otherwise pay to the IRS in payroll taxes. If those amounts are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form that will be released soon.
Tax Credits – IRS Example

If an eligible employer paid $5,000 in sick leave and is otherwise required to deposit $8,000 in payroll taxes, including taxes withheld from all its employees, the employer could use up to $5,000 of the $8,000 of taxes it was going to deposit for making qualified leave payments. The employer would only be required under the law to deposit the remaining $3,000 on its next regular deposit date.

If an eligible employer paid $10,000 in sick leave and was required to deposit $8,000 in taxes, the employer could use the entire $8,000 of taxes in order to make qualified leave payments and file a request for an accelerated credit for the remaining $2,000.
Unemployment Compensation
General Eligibility

The Oregon Employment Department provides Unemployment Insurance (UI) benefits to most workers who are out of work through no fault of their own.

To get benefits, workers must meet some requirements. In general, to receive UI benefits for a week, the individual must be able to work, be available for work, and look for work they can do.
What if the business temporarily shuts down?

- UI benefits may be available to those who are on a temporary layoff. These benefits occur for claimants whose employer stops operation for a short period of time, such as cleaning following a coronavirus exposure or by government requirement.
- Workers can get UI benefits, and do not need to seek work with other employers.
- They must be able to work, stay in contact with their employer, and be available to work when called back.

--Oregon Employment Department
Are employees who are required to stay home due to COVID-19 related illness or exposure eligible for benefits?

- Employees that are home sick because they’re are sick with COVID-19 or other flu like symptoms that prevent them from going into work, are considered able to work.
- An employee that is quarantined, but not sick, is considered able to work.
- Employees that are hospitalized because they’re sick with COVID-19, will have their claims reviewed determine the possibility of receiving benefits.

---Oregon Employment Department
If the employee is receiving paid time off benefits are they eligible for unemployment benefits?

- Generally, employees will not be eligible for benefits if their employer is paying them to remain away from the site or as stand-by pay.
- Employee’s getting vacation or other leave pay while their employer is closed, generally are not able to also receive unemployment insurance benefits.

---Oregon Employment Department
Thank you for your time today!

Questions: info@cascadeemployers.com
COVID-19 Resource Center: cascadeemployers.com
Membership information: cascadeemployers.com/membership
How to Ask Questions
Q/As & Comments
How to Ask Questions
Wrap up
COVID-19 Resources

Novel Coronavirus (COVID-19) Resources – NAO Webpage

- www.nonprofitoregon.org/news/covid-19-resources

COVID Resource Center

- www.cascadeemployers.com

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Thank You Jenna!

Jenna Reed
VP of HR Services &
General Counsel, Cascade
Employers Association

Subject Matter Expert
A recording of this webinar will be available to all *registered* attendees.

NAO members have *unlimited* access to past, present and future webinars!

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*Questions about membership, benefits, etc. email:*  
[membership@nonprofitoregon.org](mailto:membership@nonprofitoregon.org) – we’re here for you!
#ORNOnprofitsFlattentheCurve

Every Monday we’ll ask a question – To show our commitment to and support for you, NAO will be raffling off $50 worth of NAO bucks every week via random drawing.

Join us as #ORNOnprofitsFlattentheCurve
Like, Follow, Tag @NonprofitOregon

This week we’re asking:
SHOW US YOUR REMOTE WORKSPACE!

The winner can use their $50 worth of NAO credit towards their membership fee, training or upcoming event. We will announce a winner every Monday of the following week.
Thank you for joining us!

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