GBS Compliance

Executive Summary: **Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Provides Economic Relief**

March 30, 2020

The evolution of the COVID-19 epidemic is constantly evolving. The information in this document is based on what known at this time. As things change, we will continue to update you as it affects employee benefits compliance rules.

Executive Summary

On March 27, 2020, additional legislation was enacted to address COVID-19, *Coronavirus Aid, Relief, and Economic Security Act* (the CARES Act). The CARES Act includes two main sections:

1. Provisions designed to keep workers paid and employed, enhance the health care system, and stabilize the economy.
    - Expanding unemployment compensation.
    - Employer and individual tax relief provisions.
    - Expanding COVID-19 testing.
    - Clarifying and improving the Families First Coronavirus Response Act.
    - Clarification on Health Savings Accounts use for qualified medical expenses for certain supplies/medications.
2. Emergency appropriations for various programs available to certain companies during the current economic climate.

This document provides a high-level overview.

Keeping Workers Paid and Employed, Health Care System Enhancements, and Economic Stabilization

The CARES Act is made up of several Titles that include Acts:

Keeping American Workers Paid and Employed Act

- Paycheck protection
- Loan forgiveness
- Small business contracting relief
    - Amends the Small Business Act to create a new Business Loan Program category applicable from **February 15, 2020, to June 30, 2020**.
    - Authorizes the Small Business Administration to provide federally backed loans to eligible businesses to help pay operational costs, including payroll, rent, health benefits, insurance premiums, utilities, etc. Subject to certain conditions, loan amounts are forgivable.

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Assistance for American Workers, Families, and Businesses

Unemployment insurance

- **Relief for Workers Affected by Coronavirus Act**
  Federal funding for Unemployment Compensation (UC) to (gig-economy) workers adversely impacted by COVID-19 not otherwise covered by state UC laws and it has not been exhausted.
- Federal funding for state-enacted "short-time compensation" programs to subsidize employees who have their hours reduced in lieu of a layoff.

Tax Relief / Rebates for Individuals

The most talked about provision of the CARES Act are the legally termed "recovery rebates" of up to $1,200 ($2,400 for joint filers) for U.S. taxpayers. These payments are an advance refundable tax credit, subject to certain special rules:

- $500 for each child.
- Phased out for taxpayers making $75,000 ($150,000 for joint filers / $112,500 for heads of household).
- Available even if the taxpayer has no income.
- No action required to claim the rebates.
- IRS will use the taxpayer's 2019 tax return, if filed, or in the alternative, their 2018 return.
- Exempts the rebates from offset to pay debts owed to other federal agencies, state income tax obligations, and unemployment compensation debts (but not for past-due support).

CARES Act also makes several changes to retirement, such as waiving the 10% additional tax for premature distributions related to the coronavirus for amounts not to exceed $100, subject to certain rules.

Tax Relief for Businesses

The most notable parts of the CARES Act include an employee retention credit and a delay of employer payroll taxes.

Employee Retention Credit

Provides eligible employers and tax-exempt organizations (not governmental entities) a refundable credit against payroll tax (Social Security and Railroad Retirement) equal to 50% of the first $10,000 in wages per employee (including value of health plan benefits).

- 100 or more full-time employees
  - Only employees who are currently not providing services for the employer due to COVID-19 causes are eligible for the credit.
  - Effective for wages paid after March 12, 2020, and before January 1, 2021.
  - Eligible employers must have carried on a trade or business during 2020 and satisfy one of two tests:
    1. Have business operations fully or partially suspended due to orders from a governmental entity limiting commerce, travel, or group meetings; or
    2. Experience a year-over-year (comparing calendar quarters) reduction in gross receipts of at least 50% - until gross receipts exceed 80% year-over-year.

Employer Payroll Taxes Delay

The CARES Act postpones the due date for depositing employer payroll taxes and 50% of self-employment taxes related to Social Security and Railroad Retirement and attributable to wages paid during 2020. The deferred amounts would be payable over the next two years - half due December 31, 2021, and half due December 31, 2022.

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Supporting America's Health Care System in the Fight Against the Coronavirus

The CARES Act addresses issues around medical supplies, health care coverage for COVID-19, paid sick and Family Medical Leave (FML).

Coverage of Testing and Preventive Services

- Expands the types of testing covered with no cost sharing as provided in the Families First Act to include in vitro diagnostic testing.
- Leaves open for coverage other types of testing by covering any "other test that the Secretary determines appropriate in."
- Requires that the group health plan/insurer reimburse the provider for either the negotiated cost of the testing or for the cash price of the diagnostic testing as required to be reflected on its website.
- If preventive measures (an item, service, or immunization that is intended to prevent or mitigate coronavirus disease 2019) become available, group health plans/insurers must also cover with no cost sharing.

Emergency Paid Sick Leave and Emergency FMLA Authorized in the Families First Coronavirus Response Act

Emergency FMLA: A new rule for rehired employees under which "eligible employee" (employed for at least the last 30 calendar days) includes someone who:

- Was laid off by the employer March 1, 2020.
- Had worked for the employer for at least 30 days in the last 60 calendar days prior to the lay-off.
- Has been rehired by the employer.

Emergency FMLA provisions also:

- Allow for advances on anticipated tax credits for employers' paid family leave costs.
- Provides penalty relief for failure to deposit tax amounts in anticipation of allowed credits.
- Clarifies that the $200 per day/$10,000 total cap on paid leave is per employee, which was omitted from the Families First Act.

Emergency Sick Leave: Improves the ability of taxpayers to monetize the benefit of the recently enacted sick and family leave credits.

- Allows employers to receive an advance tax credit from the Treasury instead of having to be reimbursed on the back.
- Provides penalty relief for failure to deposit tax amounts in anticipation of credits allowed under this.

Emergency Sick Leave and Emergency FMLA: Clarifies the paid leave dollar limits per employee.

DOL regulations are expected in April.

Health Savings Accounts /Telehealth: Clarifies that for plan years beginning on or before December 31, 2021, a plan will not fail to be a High Deductible Health Plan (HDHP) by failing to have a deductible for telehealth and other remote care services.

Over-the-Counter Drugs: Repeals the rule enacted in the Affordable Care Act that prohibited over-the-counter medicines other than insulin from being "qualified medical expenses."

- These funds can be used for items needed in quarantine and social distancing, without a prescription.
- Adds menstrual products to the definition of qualified medical expenses.

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Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy

Relief to airlines, financial institutions, and sectors critical to national security are included in this section of the CARES Act. It provides $500 billion for loans, loan guarantees, and investments in key areas that have not received "adequate economic relief" for businesses critical to maintaining national security; and facilities established by the Federal Reserve to support lending to eligible businesses, states, and municipalities.

Conclusion

While it is yet too soon to provide the details of the CARES Act since details will come in April through the regulatory process, it is clear the administration intends to provide great laxity to those affected by COVID-19. Businesses have additional time to pay taxes, and employees who have lost their jobs may likely receive unemployment benefits. Each state governs eligibility for unemployment. Consult your state unemployment website for details around whether your employees could receive the unemployment benefits mentioned herein. When new rules and clarifications are released, GBS will be sure to keep you updated.

This summary has been adapted from an outline provided by CIAB to it's members. The information is provided as educational material only and is not intended as legal, financial or tax advice. Consult your legal counsel for complete details on your compliance requirements for your plan(s).

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