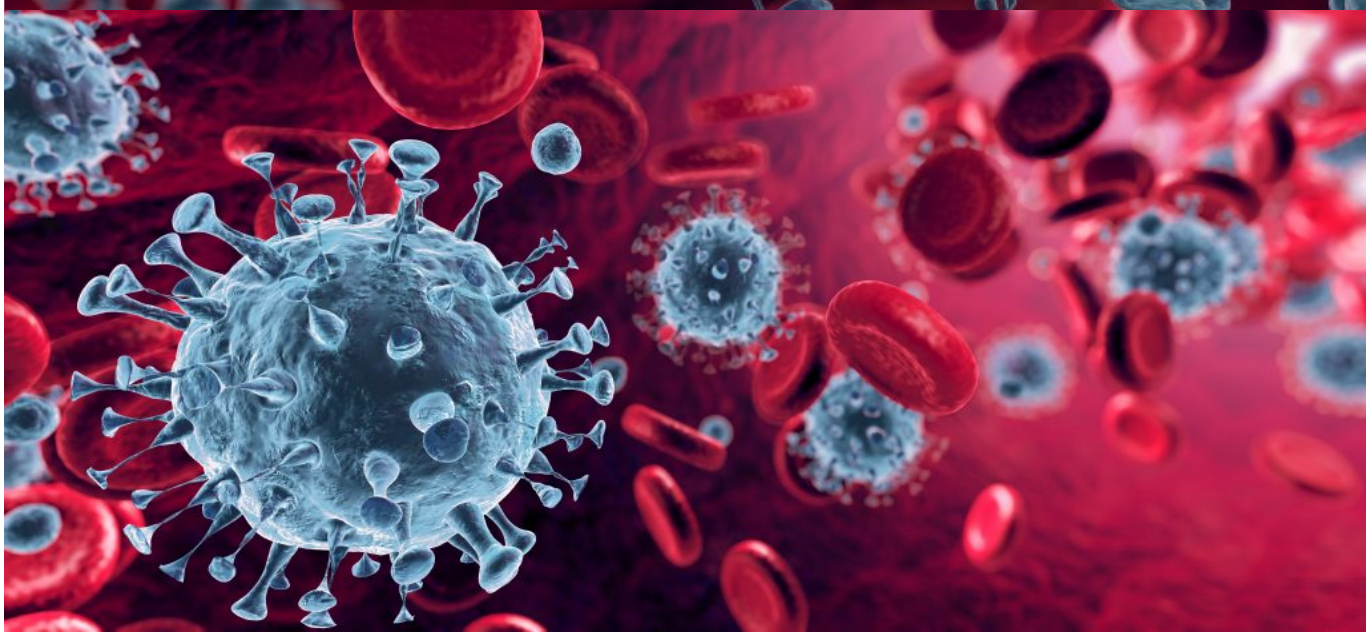
Current Rules Regarding Eligibility For Unemployment Insurance Benefits in Missouri and Kansas Due to COVID-19



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Because so many employees are being forced into unemployment or are having their hours reduced because of COVID-19, we are providing our clients and friends with general information regarding the current rules regarding eligibility for unemployment insurance benefits in Missouri and Kansas. Please note that the law regarding eligibility is changing and will probably change again in the future and that the eligibility requirements and benefits vary from state to state and may be changed by legislation pending in Congress. We urge you to check with the websites listed at the end of this client alert including our COVID-19 Resources page and the applicable state unemployment websites for additional and updated information on eligibility for unemployment benefits and other COVID-19 guidance.

FILING FOR UNEMPLOYMENT INSURANCE BENEFITS IN MISSOURI DUE TO COVID-19

If an employee is off work due to COVID-19 but still receiving pay, including sick leave, vacation pay, PTO, or family medical leave, the employee is generally not eligible to receive unemployment insurance ("UI") benefits, also known as unemployment benefits.

In contrast, where an employer temporarily shuts down operations due to COVID-19, employees will likely be eligible for apply for UI benefits. In Missouri, UI benefits are available to individuals who have

lost their jobs due to no fault of their own. Where an employer shuts down due to COVID-19 leaving no work for its employees, the employees may be eligible for UI benefits so long as they meet the remaining eligibility requirements.

Employees applying for unemployment must meet an earnings threshold based on something called the Base Period. The Base Period is defined as the first four of the previous five completed calendar quarters immediately preceding the quarter in which the claim begins. To be eligible, the claimant must earn at least $2,250 (at least $1,500 during one of the calendar quarters, and at least $750 during the remainder of the year) from an insured employer during the Base Period and the employee's total Base Period wages must be at least 1.5 times the highest quarter wages. For a comprehensive summary of wage-based eligibility requirements, click here.

Eligible employees may receive up to 20 weeks of UI benefits, earning up to $320 per week. Notably, severance pay is not reportable, and an employee may file an unemployment claim while receiving severance pay.

Employees who receive UI benefits may need to engage in weekly work searches depending on circumstance. The weekly work search requirements do not apply when there is a "recall to work" date within eight weeks of the temporary lay-off. If the "recall to work" date changes but falls under eight weeks from the last date worked, the employee must contact a Regional Claims Center representative to update the recall date. An employer may apply for approval of an extended recall and work search wavier for employees of up to 16 weeks.

A similar situation may arise where an employer requires an employee to quarantine because of suspicion of having COVID-19. In that instance, it is likely that an employee is eligible for unemployment benefits, but the employee need not engage in the weekly work search eligibility requirements when there is a "recall to work" date within eight weeks of the temporary lay-off.

Where an employee who voluntarily elects to self-quarantine due to COVID-19, that employee may be eligible for unemployment benefits on the basis that the employee is unemployed due to no fault of his or her own. But it depends on context. If the employer gives the employee the option to telework, and the employee accepts, the employee remains employed and is not eligible for benefits. If, however, there is no telework option available or offered, the employee may be eligible for benefits.

An employee who leaves work to care for children due to daycare or school closures is not eligible for unemployment benefits because the employee is electing – however difficult the choice may be – not to work. However, the Missouri Department of Labor is clear that facts and circumstances are critical to determine eligibility for benefits in this circumstance.

An employer whose business has temporarily declined due to COVID-19 may participate in Missouri's shared work program if they meet eligibility requirements. The Shared Work Unemployment Compensation Program is an alternative to layoffs for employers faced with a reduction in available work. It allows an employer to divide the available work amount a group of affected employees. These employees will receive a portion of their unemployment benefits while working reduced hours. More information may be found here.

At this time, Missouri (unlike Kansas) has not waived the Waiting Week, which is the first week for which the claimant is eligible for unemployment benefits, but not paid. During this week, the claimant must file a weekly request for payment, and may receive compensation for the waiting week as the last payment under the claim.

Employees who have been terminated should immediately file a claim for unemployment benefits with the Missouri Department of Labor to begin the process of determining eligibility for UI benefits. Claims may be made here.

FILING FOR UNEMPLOYMENT INSURANCE BENEFITS IN KANSAS DUE TO COVID-19

In Kansas, an employee who is not working or working reduced hours due to COVID-19 may be eligible for UI benefits.

An employee receiving paid leave, sick leave, vacation leave, or some other paid benefit and the amount paid is more than an employee's weekly benefit amount2, the employee is considered employed for purposes of unemployment benefits and not entitled to benefits.

On the other hand, an employee who is not working and not being paid or whose hours and wages have been reduced and is available for work (i.e. has not withdrawn from the labor market) is considered unemployed and likely eligible for the UI benefits.

An employee whose employer has temporarily shut down due to COVID-19 may be eligible for UI benefits if the employee is not working and not earning any money (i.e. paid leave, sick leave, vacation leave, or some other benefit). However, the employee's claim must be evaluated by KDOL before it will determine an employee's eligibility in this situation.

An employee whose hours are cut due to COVID-19 may be eligible for UI benefits based on KDOL's evaluation of the following criteria: (1) the basis for the employee's reduction in hours; (2) the employee's weekly earnings (if the employee's earnings for a week are the same or higher than the weekly benefit amount, then the employee is ineligible for UI benefits that week); and (3) whether the employee is physically able and available for work each week.

Employees who have lost their jobs due to COVID-19 do not have to look for other work if the employee has taken all necessary steps to return to work for the employee's regular employer.

Kansas offers up to 16 weeks of unemployment, and eligible claimants may receive between $122 and $488 based on previous income. However, unlike Missouri, severance pay is reported and delays the date an applicant may begin receiving unemployment benefits. It will not reduce the amount of weeks a claimant is eligible. If the payment is made in a lump sum, the employer and claimant will be asked the amount of time the pay was intended to cover, and the UI benefit will begin after the last day the lump sum payment was intended to cover.

Kansas has waived the "Waiting Week" for employees who are unemployed due to COVID-19. These eligible employees are not subject to the one-week period before receiving UI benefits.

Employees who have been terminated by a Kansas employer should immediately file a claim for unemployment benefits with the Kansas Department of Labor to begin the process of determining eligibility. Claims may be made here.

Finally, Kansas employers may be eligible for loans under the newly-created Hospitality Industry Relief Emergency (HIRE) Fund to assist with payroll. The Fund makes available $5 million for businesses with 100 or fewer employees, $2 million of which is available to the Kansas City Metro area. Each eligible business, including restaurants, bars, lodging facilities, conference centers, and event centers, may receive a maximum $20,000 bridge loan from the fund at 0% interest for a period of 36 months. The loans may be used for certain approved activities, including payroll. Decisions on loan applications will

be made available within 72 hours of application receipt, and funds will be transferred within 48 hours. More information about the HIRE Fund may be found here. This Fund is in addition to the low-interest Economic Injury Disaster Loans made available by the SBA. More information about the SBA loans may be found here.

Where else can I get more information and updated information?

We encourage you to keep updated on the latest developments being provided by federal, state and local medical authorities including but not limited to the Centers for Disease Control and Prevention (CDC), the United States Department of State, the Missouri Department of Health and Senior Services, the Kansas Department of Health and Environment, and the Kansas City Missouri Department of Health.. Regularly review the websites noted above, the COVID-19 Resources page on our website, cdc.gov, coronavirus.gov and the CDC's Interim Guidance for Businesses and Employers. Another valuable resource is the National Governors Association website nga.org which provides valuable resources from every state on COVID-19 and steps employers can and should take to deal with this pandemic.

This article is general in nature and does not constitute legal advice. Please note that new guidance is being provided by the CDC and other federal, state and local authorities on a daily basis so please monitor new developments and guidance. Readers with legal questions should consult the authors, Julie Parisi (JParisi@sb-kc.com), John Vering (JVeirng@sb-kc.com),or any other shareholders in Seigfreid Bingham's Employment Law Group, including: Mark Opara (MOpara@sb-kc.com), John Neyens, Brenda Hamilton, Shannon Johnson, or your regular contact at Seigfreid Bingham at 816-421-4460.