



BRUBAKER CONNAUGHTON
GOSS & LUCARELLI
ATTORNEYS AT LAW

UPDATE ON COVID-RELATED HEALTH AND SAFETY REQUIREMENTS

July 27, 2020

COVID-19 PA Hazard Pay Grant Program

Pennsylvania Governor Tom Wolf announced, on July 16, \$50 million in available grant funding to help eligible employers pay certain life-sustaining employees hazard pay during the COVID-19 Pandemic. The purpose of the grants is to ensure employers are able to retain and employ essential employees during the pandemic. The Department of Community and Economic Development (the “DCED”) is overseeing the program. Applications for the program are being received until July 31.

Eligibility for the grants is limited to the following applicants: Businesses (limited to certain industries, as discussed below), healthcare non-profits, public transport agencies, and certified economic development organizations. Privately owned businesses wishing to apply are only eligible to do so if the business operates in Pennsylvania and in one of the following industries:

- Healthcare and Social Assistance
- Food Manufacturing
- Food Retail Facilities
- Janitorial Services to Buildings and Dwellings
- Transit and Ground Passenger Transportation
- Security Services for the industries listed above and commercial industries that were not closed as a result of the Governor’s Business Closure Order.

The DCED states that it is prioritizing applications for grants in the order as immediately set forth above.

For businesses receiving a grant, the funds may only be used for hazard pay for direct, full-time and part-time “front-line” employees earning less than \$20/hour. Each eligible “front-line” employee may receive up to \$3/hour in addition to their current wage. For purposes of the grant, a “front-line” employee is defined as an employee “deemed necessary by the employer to report to work during the COVID-19 pandemic for life-sustaining eligible industries. Tele-working employees are not eligible to receive grant funds for hazard pay under the program. Funds must be used during the 10-week period between August 16, 2020 and October 24, 2020.

On the grant application, employers must certify:

- Their employees are paid at least the federal minimum wage of \$7.25/hour;
- The employer share of the Federal Insurance Contributions Act for the hazard pay will be paid by the employer;
- Compliance with Centers for Disease Control guidelines, Department of Health Regulations and guidance for reopening under the Governor's Phased Reopening Plan ; and
- Compliance with all relevant laws, orders, and regulations during the period of the COVID-19 disaster emergency under the Governor's proclamation dated March 6, 2020, and any and all subsequent renewals.

More information regarding the grant program, as well as access to the application, can be found [here](#).

Targeted Mitigation Order – Frequently Asked Questions

Effective July 16, 2020, Governor Wolf and Secretary of Health Rachel Levine issued targeted mitigation orders in an effort to slow the rise of COVID-19 cases. The Department of Health also issued an [FAQ](#) which provides updated information and answers to questions regarding the operation of bars and restaurants, nightclubs, gyms and fitness centers, as well as guidelines for events and gatherings and teleworking.

Some of the highlights include:

Bars, Restaurants, Nightclubs

- Alcohol may only be served on-premise when it is served in the same transaction as a meal.
- Social distancing, masking and other mitigation measures must be employed.
- Indoor dining is limited to 25% occupancy (including staff).
- Nightclubs are prohibited from operating.

Gyms and Fitness Centers

- Gyms and fitness centers are directed to prioritize outdoor fitness activities.
- Indoor activities are permitted, but must follow the masking order of July 1 and are subject to the indoor gathering limitation below.

Events and Gatherings

- Indoor events are limited to 25 people.
- Outdoor events are limited to 250 people.

Teleworking

- Teleworking must be employed except to the extent it is not possible.

On July 22, 2020, the Pennsylvania Liquor Control Board also issued clarifying [Guidance](#) applicable to licensees.

COVID-19 Testing Strategies for Non-Healthcare Workplaces

On July 3, the Centers for Disease Control (the “CDC”) updated its [testing strategies for non-healthcare workers](#). In the updated article, the CDC states that employers may consider implementing COVID-19 tests for their employees as part of a comprehensive approach to reducing COVID-19 transmission. Employees that are tested must receive certain patient fact sheets which are made available through the CDC and FDA. The updated article provides resources for testing employees in the following categories and situations:

- Employees with signs or symptoms consistent with COVID-19
- Asymptomatic employees with recent known or suspected exposure to COVID-19
- Asymptomatic employees without recent known or suspected exposure to COVID-19
- Employees with a previous positive COVID-19 test or suspected COVID-19 infection
- Employees as part of public health surveillance

Employees with Symptoms, Previous Positive Test

For employees with symptoms of COVID-19, the CDC recommends immediately separating the affected employee from other employees, customers, and visitors and sending the affected employee to their healthcare provider. To avoid stigma, employers should screen employees in private. An employee which undergoes a test for COVID-19 should stay home until the test results arrive. For employees that test positive, employers should encourage the affected employee to isolate at home and return to work on a symptom-based, time based, or a test-based strategy.

Asymptomatic Employees

If the resources and testing kits are available, asymptomatic employees may also be tested. The CDC recommends adopting a risk-based approach to testing employees that had or may have had contact with someone infected by COVID-19. Employers should consider not only the risk regarding the likelihood of the employee contracting COVID-19, but also the risk of the employee spreading COVID-19 to other employees, customers, and visitors.

Public Health Surveillance

Public health surveillance testing is typically performed in areas and workplaces where virus transmission can or does occur rapidly. The ultimate factor to consider when performing public health surveillance testing, though, is the benefit of such testing to the employees.

If you have questions about your eligibility to receive a grant, new operating restrictions on your business, or testing policies and procedures, BCGL’s Employment Team of Theresa Mongiovi and Angela Sanders are available to assist you.