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Daniel Kalish:

Hi. So why don't we get started again, my name is Daniel Kalish. I am an attorney at HKM Employment Attorneys and I believe four people on the call. Julian Wolfson, Sarah Schreiber, Shelby Woods and Jesse Fishermen and they are four attorneys at HKM who will also be discussing issues with us. Do you all want to quickly introduce yourselves?

Daniel Kalish:

Okay, so they just have to unmute themselves again. So that is kind of an issue. So we'll just give it a few minutes.

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All callers are unmuted.

Speaker 3:

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Automated:

All callers are muted and they can unmute themselves.

Daniel Kalish:

Okay. Everyone's coming back in. I apologize. I messed up the system on our end, but do we have a Shelby or Sarah here?

Sarah Schreiber:

Hi, this is Sarah Schreiber. I'm one of the attorneys. From HKM just wanted to introduce myself quickly and say hello. Thanks for attending today. We're very happy to provide you with this advice that I'm introducing today. I fight for employees rights like the other attorneys at HKM. I help in all kinds of circumstances, unemployment, discrimination, wrongful termination and I'm happy to be here today to talk with you guys.

Daniel Kalish:

Great. Thank you.

Shelby Woods:

Hi, and this is Shelby Woods. Hopefully everyone can hear me okay. I'm another attorney that's going to be helping out for today based in Denver. Hopefully we'll be able to answer a number of questions that everyone has submitted.

Julian Wolfson:

Hello, this is Julian Wolfson also from the Denver office, an attorney at the Denver office. We look forward to answering some questions and providing with you some advice during this trying times.

Daniel Kalish:

All right, great. So a quick disclaimer. This is an opportunity to provide us with sort of general advice. This is not sort of establishing any sort of attorney client relationship and if you want to talk specific things you know what we would encourage you to do is talk to a specific attorney about your issue, but we did want to give you all some sort of general information as we understood it just to kind of help you.

Daniel Kalish:

In addition, we will have an opportunity to add at the end to answer some specific questions that people want answered and the best way to do that is we'll give you an email address. You can email us and we could try to answer your individual questions of course, without saying specifics about who you are and kind of what office you're on.

Daniel Kalish:

Let me start by giving you a general background, a little bit of information about sort of the federal statutes that exist that are sort of out there, that may affect sort of independent contractors, workers and or employees. The first act that occurred, and this is a federal government was called a Families First Coronavirus Response, and the basic idea is this, did two things.

Daniel Kalish:

One is that if you worked for an employer with less than 500 people, so it's a company that has less than 500 employees. If you worked for them and you have a child who was at home because that child is unable to go to school and you can take up to 12 weeks off and get paid roughly two thirds of your normal pay, first thing. In addition is basically what that statute provided was that you would also be able to get two weeks off from paid sick leave if you either had coronavirus or coronavirus symptoms or you were taking care of someone who had coronavirus symptoms, so that's kind of the first statute.

Daniel Kalish:

The second statute was called the CARES Act that was passed a few weeks later and basically what that did is expand unemployment benefits and it did it in sort of in three ways, actually. First is that for anyone who was on unemployment is they would add an additional \$600 a week until July 31st, 2020 to your unemployment benefits, number one.

Daniel Kalish:

Number two, what they would do is that now independent contractors and or gig workers are now entitled to unemployment benefits also and then number three what it did is it expanded the duration of unemployment and expanded the duration of unemployment from 26 weeks for most States, that 39 weeks. So that's what that sort of statute did. Another thing that is going on from the federal government is there's a federal stimulus and this gives up to \$1,200 individuals or \$2,400 to couples.

Daniel Kalish:

And that is being sent in my understanding soon. If you haven't already received it. We actually don't know anything about what the government's doing there but all of you should be able to begin to check either directly deposited or mailed to you for \$1,200 or \$2,400. It does. If you make over a certain amount of money though you'll either get a reduced check or no check at all. Then finally there's

something called the Paycheck Protection Program and that is to give small businesses and some independent contractors, a loan that can be forgivable. So if you are an independent contractor or gig worker, we strongly suggest you take a look at whether or not you can apply for the Paycheck Protection Program and maybe get a forgivable loan. Essentially a forgivable loan is basically just like a grant. Those are sort of the four kind of federal statutes I wanted to kind of go over that.

Daniel Kalish:

The second thing I wanted to discuss a little bit was that a lot of people have written us and they say that they either haven't been paid by their employer or that they've been unfairly laid off and I want to describe those because they're a little bit different. First if you have worked for your employer and your employer has not paid you, that almost surely is illegal. That employer has to pay you for the work you've done and the mere fact that there's a coronavirus or business has slowed down that generally speaking is not an excuse for a business not to pay you.

Daniel Kalish:

So if you have worked for a business and they have not given you your pay, then absolutely you should either contact an attorney specifically in your jurisdiction or contact your employer because that, that is almost surely not allowed number one.

Daniel Kalish:

Number two is a lot of people have written us and said, "My hours have been reduced or I have been fired. Is this legal? And I wanted to give you all a quick primer on when employers can reduce people's hours or reduce people's pay or reduce people's employment kind of on a going forward basis. So what an employer cannot do is say to an employee four to 10 hours you previously worked for me, I'm going to pay you half what I promised. That's illegal.

Daniel Kalish:

What an employer can often do though is saying, look, I'm going to pay you for the 10 hours you previously worked for me at the exact same rate I promised, but going forward, if you still want to work at XYZ company, you are going to get paid 50% of what you normally got paid. That generally speaking would be legal as long as there wasn't a specific employment contract that you had with your employer.

Daniel Kalish:

A lot of people have contacted us and saying that they have been offered to stay at work under a reduced pay or that they have to stay at work where a lot of other people can work from home or that they were terminated whereas others weren't, and they wanted to know if that was legal or not. On that note, I wanted to give a quick sort of primer on kind of when employers can or cannot terminate someone.

Daniel Kalish:

Basically almost all States are at will States, and what this essentially means is that they can terminate an employee for any reason that they want. They can terminate them because they don't like the color of their shoelaces. They can terminate them because they don't like the type of tie that someone wore. They can definitely terminate someone or reduce their pay on a going forward basis if they're having problems with their business because of the coronavirus. So those are all sort of legal reasons. They can

also choose to fire some people or, and keep other people and all of that is generally legal with two basic exceptions.

Daniel Kalish:

One is, you cannot, when deciding whether to fire someone, it cannot be based on someone's what's called protective class status. It cannot be based on someone's gender, on someone's religion, on someone's race, ethnicity, et cetera. Number one. Number two is that it cannot be in retaliation for the employee coming forward with sort of information about an allegation that an employer is violating the law. For example, if an employee goes to the employer and says, I believe that there's been a violation of my rights that I've been, for example sexually harassed an employer, cannot retaliate and fire the person for that.

Daniel Kalish:

I just wanted to say an employer can choose to lay off some people and not others or choose to have some stay at work but not others for really any reason that they want, as long as it's not discriminatory or as long as it's not retaliation and I think that will answer a lot of people's questions about your individual situation as well. So that's was to start and I want to pass it off to Shelby, who's going to talk a little bit about some of the safety issues and health in the workplace. So Shelby why don't I hand it off to you.

Shelby Woods:

Thank you Dan, and this is Shelby Woods again. Now one of the big questions we've received is, do I have to go into work if I'm concerned about being exposed to the coronavirus? First, to answer this question, you should absolutely check to see if your State or your County has issued an order stating that all non-essential or non-critical workers need to stay at home from work. Now if that that type of order has been issued and you are non-essential under that order, then you can stay at home and keep in mind that the definition of what's considered a non-essential or essential or a critical business are very very new.

Shelby Woods:

So it may not be crystal clear in every case which category your employer falls into, but it is important to try to stay up-to-date on any new orders that might be issued by your state or your local government that might provide more guidance on whether your employer is an essential business. If you believe that your employer is not an essential or a critical business, it is important to let them know and many of the communications that we encourage you to have with your employer during this call. It's going to be important to try to document those communications so that if you can make that communication in writing, that could be helpful later on.

Shelby Woods:

Even if you end up having a phone call with someone from your employer that lets them know your concerns, that the company is not an essential business or that you believe you're not allowed to go into work. You can always send a follow up email that just kind of memorializes what happened in that phone call and kind of documents your understanding of whether you are allowed to stay at home.

Shelby Woods:

Another big question we've received is do I still have to go to work if I'm concerned about being exposed to the coronavirus because I'm immunocompromised or maybe you have a relative who is immunocompromised. First let's address, if you yourself have some kind of medical condition that would make you particularly susceptible to any kind of complications related to the coronavirus where you could become infected, then you can make a documented request for a reasonable accommodation related to your medical condition.

Shelby Woods:

Now that could be things like requesting permission to work from home, requesting leave from work or requesting permission to be allowed to work with certain protective equipment like maybe a face mask or gloves. Now it is important again to document that request for accommodation so to make sure that it's in writing in some way and then it is very common for employers to actually request that you also provide a doctor's note regarding your requested accommodation and it is reasonable for an employer to find out what medical conditions specifically you are requesting and accommodation related to.

Shelby Woods:

It is also generally can it be permissible for an employer to require your doctor to sort of sign off on the fact that you are requiring that specific accommodation because of a medical condition that might constitute a disability. There are definitely going to be situations where an employer might ask for an impermissible amount of medical information. For instance, if an employer asks for all of the medical information related to your disability throughout your entire life, that could be something that courts would likely say is just too broad and is not reasonable and is likely a violation of your rights but if an employer is requesting [inaudible 00:16:07] get a doctor's note that certifies the fact that you need an accommodation such as working from home because of a specific medical condition, that is generally going to be reasonable.

Shelby Woods:

Now you should also again, like Dan mentioned, check whether you are eligible for emergency leave under the Families First Coronavirus Response Act and that is going to again apply to companies with less than 500 employees, but it may be available if you are advised by your doctor to self-quarantine and you likely will again have to provide a note from your provider that does sort of confirm the fact that you've been advised for medical reasons to take leave from work under the Families First Coronavirus Response Act or under just a normal leave policy that would sort of protect you and protect your medical condition because of the coronavirus pandemic. If you are eligible for that emergency leave, you can apply through your human resources or through management.

Shelby Woods:

Now if you have a relative who is immunocompromised and you're requesting leave from work because of your relatives medical condition, generally speaking, there's going to be a lot more limited protections for you. Employers are generally not required to provide accommodations related to the medical condition of a relative of one of their employees, unfortunately, but if your relative has what would be considered a serious health, which usually, and generally speaking requires that that relative is incapacitated. Whereas under continued treatment by a medical provider. In that case they might have a serious health condition and if you work for a company with at least 50 employees in a 75 mile radius and you've been with that employer for at least a year, then you can apply for a traditional leave under the Family and Medical Leave Act. That's just traditional FMLA leave and you can get up to 12 weeks of

unpaid leave for purposes of caring for that relative serious health condition and that has to be someone who is either your parents, your spouse, or your child.

Shelby Woods:

Now we also get a lot of questions about employers not exercising safety precautions, like not being allowed to wear personal protective equipment, PPE or not following social distancing guidelines. One option there is to make sure that you internally report your concerns to management or to human resources. That's another communication that you're going to want to make sure it's in writing or is it documented in some way so that you can make sure that you can prove that you reiterated your concerns in the event the worst case scenario happens such as if you happen to get retaliated against.

Shelby Woods:

Another potential possibility could be if you are a State or a County that is subject to one of those stay at home orders that I mentioned earlier, then there may be some guidelines in that order that requires employers or just people in general to follow those safety precautions that I've mentioned. Things like social distancing, things like making sure that to the extent that employers can still carry on their critical business functions, that they make sure that employees have as little contact as possible or make sure that anyone who can perform their job remotely is allowed to do that, so that could be sort of one source of guidance for you to communicate internally to management or to human resources along with your concerns that the company may not be doing everything it can to follow those safety precautions at least at that time.

Shelby Woods:

Another possibility could be that you can report those concerns to the State Attorney's General's office, particularly again, if the State has issued an order that requires companies, employers individuals just to call up certain safety precautions that just aren't being respected at all in the workplace, and again, I would make sure that you have sort of a record to make sure that you can later on prove that you made that sort of potentially protected report to a State authority for purposes of trying to make things better in your workplace.

Shelby Woods:

A lot of people also ask us questions about whether they can be terminated for refusing to work without being allowed to wear certain personal protective equipment like face masks or gloves or if they can be terminated for refusing to come to work because maybe their employer is not respecting social distancing guidelines. In that case it is sort of an onboard clear question or an unclear answer I would say. Now prior to the coronavirus pandemic, it's been fairly clear under the law that for instance, a healthcare worker can be fired for refusing to work without a face mask unless there's a specific requirement by maybe Joint Commission standards for the personal protective equipment is necessary because of some disability the worker has.

Shelby Woods:

In general, it is probably the case at least before the coronavirus pandemic that a worker can be legally terminated for refusing to work without, for instance, a face mask. Since the coronavirus pandemic, there have been more regulations and more guidance by a lot of government agencies that have certainly encouraged the use of things like face mask as well as other PPE, but it's probably going to be very context specific and I would say generally speaking, if you feel you must refuse to work without

wearing a face mask or other types of PPE, it's probably important to communicate to your employer in a documented way that you believe doing so would violate some kind of specific regulation, but just maybe regulations from the CDC or maybe OSHA regulation and that you believe that wearing a face mask is important to protect other employees as well as potentially the public from spreading the coronavirus.

Shelby Woods:

Now another common question is, is my employer required to tell me if an employee tests positive for COVID-19? If an employer learns that one of its workers has tested positive for COVID-19, it may have an obligation to inform you if your employer knows that you were in contact with the individual that tested positive. However, employers cannot identify the individual who has tested positive. They do have to respect the confidentiality of that individual's protected health information.

Shelby Woods:

However, according to OSHA, the law does require that employers provide a safe workplace, meaning that they have a duty to protect you from recognized hazards. However, there are no specific requirements for what an employer has to do to protect you from an infectious disease like COVID-19, and also you should know that even if OSHA were to decide that your employer violated his obligation to inform you of a recognized infection from COVID-19, that might result in the employer being assessed as fine from OSHA, but it doesn't necessarily mean that you would be receiving any kind of monetary compensation as a result of the employer's failure to inform you that there was a recognized risk that you could be infected with coronavirus because one of the employees at your specific location that you've interacted with has tested positive.

Shelby Woods:

Then to sort of wrap up the health and safety part of this call, a lot of people have also asked what they should do if they've been exposed to coronavirus or more importantly, if they have tested positive for coronavirus. Then you should absolutely immediately inform your employer. Make sure to document that conversation. Also, make sure that you're making every effort possible to be in touch with your healthcare provider. It can be just extra protection for you to get some kind of certification from your healthcare provider that you're having coronavirus symptoms or that you have actually tested positive for coronavirus and you absolutely should not go into work.

Shelby Woods:

There's going to be, I think a very unlikely scenario where an employer is ever going to be allowed legally then to terminate someone who has tested positive for coronavirus for refusing to come into work. Whether your protection falls under some kind of state or local order that requires individuals who have grown virus symptoms or who tested positive to stay home or whether the coronavirus itself could be potentially considered some kind of disability or even a serious health condition.

Shelby Woods:

Typically speaking, you are probably very likely to be safe if you go ahead and stay home and refuse to go to work and make sure along with that that you are letting your employer know why. That is I think everything that we have as far as the health and safety part of this, but we do want to talk about situations where attendance is compulsory and what you can do in terms of your rights there. Julian Wolfson is going to handle that subject area.

Julian Wolfson:

Thanks Shelby for that great overview. Once again, I'm Julian Wolfson, one of the attorneys at HKM Denver office and as Shelby alluded to, one of the common questions we have received is what constitutes an essential or critical business, and what I mean by that is businesses that are allowed to stay open, notwithstanding any governing order issued by your state or local government. As you may suspect, there are a variety of different orders throughout the country defining which businesses are essential or critical.

Julian Wolfson:

Generally speaking, we have seen that these orders are quite vague and potentially subject to multiple different interpretations. It's also important to know that we have seen governments continue to modify these orders on a regular basis and therefore recommend that you check to see what modifications have been made to these orders on a daily and or weekly basis.

Julian Wolfson:

In addition to delineating which businesses can stay open and which businesses cannot. Some of these orders we have seen impose restrictions on essential businesses. That is businesses that are allowed to stay open, still are required to follow certain rules, including in some instances social distancing rules and reducing the number of people physically present at work. We also recommend that you review those limitations in addition to limitations imposed on non-essential versus essential businesses.

Julian Wolfson:

If you feel as though your employer is a non-essential business that continues to remain open or forces you to attend work, we suggest a couple of options. One is to talk to your employer, explain why you think they're not abiding by the governing order and really try to discern their justification for staying open. Another option is to take any lead that you may have already earned.

Julian Wolfson:

Finally, as Shelby alluded to earlier, you may also want to call your Attorney General's office both to report your employer for violating the governing order and also to inquire about your rights. One of the main questions we've received regarding this issue, concerns if you are fired for refusing to attend work at what you believe or what is a non-essential business. While you may have legal recourse depending on the specific facts and the governing law in your state, justice is slow and with this novel pandemic, it's hard to assess how courts will evaluate these types of claims.

Julian Wolfson:

Another question we've also gotten frequently is what if I am a non-essential employee at an essential business? But generally we have not seen orders differentiating between essential businesses and essential employees. That is, we have seen classifications of businesses and employers, but not employees as much, but that will obviously depend on the local orders in place where you live and we recommend that you consult them and consult an attorney in that jurisdiction should you have any further questions.

Julian Wolfson:

A couple of other quick questions I wanted to go over that we have received is if you could be forced to sign a new agreement at work and unfortunately, generally speaking, you can be forced to sign a new work agreement. That will depend though on the contract you have with your employer if you have one, but generally speaking, you can be forced to enter into a new agreement with your employer to continue working there.

Julian Wolfson:

Finally, I wanted to address a question we've received often on the call, which addresses if employees have the right to work from home. If your State or County has a work from home order that you may be required to work from your home but as you said before, you should talk to your employer about this. Otherwise, generally speaking you do not have a right to work from home unless that you have a medical condition that would qualify you for certain accommodations under the ADA and or similar acts. With that being said, I wanted to turn the microphone over to Sarah.

Sarah Schreiber:

Thanks Julian. I appreciate it. Hi everyone. I'm Sarah Schreiber. I'm another attorney out of the Denver office. I want to touch on a few things. First, the CARES Act that expanded unemployment that Dan talked about initially when he went over the four different federal packages and laws that have been passed. I'm going to go into a little more detail for you. I also want to address a number of the questions pertaining to unemployment, types of workers and situations that you guys have reached out to us about that would pertain to unemployment issues. Then third, I want to touch on briefly the stimulus checks when they're coming, how they're coming. Things of that nature.

Sarah Schreiber:

Let's start with the CARES Act. This is a huge, huge piece of law that has come out to really help people in this COVID-19 crisis. First of all, it has five applications and these applications are very important. The first application expands coverage to individuals that would not usually be eligible for unemployment. It's called the pandemic unemployment insurance portion of that act and it's huge because it covers those that wouldn't traditionally be covered by unemployment benefits. Even those people likely that have quit your job because of COVID-19.

Sarah Schreiber:

It includes business owners, self-employed individuals, independent contractors, gig workers, and even those individuals that have a limited work history or a limited history of wages earned. That's important because in each state there's a different calculation of how wages are computed for your benefit and there are different limitations in each state as to the max amount of benefits that you would normally be provided under unemployment, but often before coronavirus, if you had a limited work history or didn't work enough quarters, essentially out of enough years, your pay could be affected.

Sarah Schreiber:

This bill is huge because it allows for much more expanded unemployment insurance for those individuals that just don't have the work history or the history of wages, but if you were affected by coronavirus, then you are likely going to be protected here for some benefits. It's also very critical because it helps people who have exhausted their regular and some extended benefits. So let's discuss the numerous reasons why and who might be getting these extended benefits and you can also find

these reasons on our website, hkm.com/coronavirus. You can find these here, but I want to run through them for you.

Sarah Schreiber:

The CAREs Act is helping additional people get the unemployment as I mentioned, because of COVID. These people should be able to obtain unemployment benefits. An individual who's diagnosed with COVID-19 or experiencing COVID-19 symptoms and seeking medical diagnosis. A member of the individual's household was diagnosed with COVID-19. The individual is caring for a member of their family or household who is diagnosed with COVID-19. A child or person for which the individual has primary caregiving responsibilities. Who's unable to attend school or another facility that's closed as a direct result of COVID-19 and that facility is required for the individual to work.

Sarah Schreiber:

The individual is unable to reach the place of employment because of quarantine imposed is a direct result of COVID. The individual is unable to reach the place of employment because the healthcare provider advised to self-quarantine due to COVID. The individual was scheduled to commence employment and doesn't have a job or is unable to reach the job as a result of COVID. The individual became the breadwinner or major support because the head of household died from COVID. The individual has to quit as a direct result of COVID.

Sarah Schreiber:

The individual place of employment is closed as a direct result of COVID or individual meets additional criteria established by the secretary of labor. So this is a much, much broader expansion of who might be able to get these benefits, but keep in mind it's because of COVID. In addition, there are some people who are just not eligible for unemployment and those are individuals who are able to tele work with pay or if you're receiving sick leave or other paid leave benefits and I'll address some questions that came up specifically pertaining to that.

Sarah Schreiber:

Keep in mind that this is just a messy and complicated system. When you're talking about unemployment. Each of our States is under an extreme pressure and facing something that the system was simply not built for. It's not an excuse. I absolutely understand the frustration that everyone is facing who's trying to apply for benefits, getting kicked out of the system, not able to make phone calls, not able to directly reach somebody.

Sarah Schreiber:

We have individuals we've heard, who have been kicked out during an unemployment appeal and can't get back to the person, the hearing officer, all of those frustrations. We hear you on those frustrations. There's a lot of things that are being worked out in each specific state. Unfortunately, we can't help you with all of those problems, but I'm going to talk to you about some strategies as well going forward, but remember, the overarching theme to understand here is even if you're not sure if you're eligible for unemployment benefits, you should apply.

Sarah Schreiber:

There's no penalty for applying and being wrong. You might get rejected, but you should most definitely apply if you're wondering whether or not you're someone who falls into one of these categories, go ahead and do it. That's the best thing that you can do for yourself.

Sarah Schreiber:

The second application of this CARES Act is expanded coverage to 39 weeks. Most state unemployment benefits are only 26 weeks as Dan had mentioned, this expansion has an additional 13 weeks, which is huge. If you remain unemployed and the time period is from January 27th of 2020 through December 31st, 2020 it's related to COVID. So a lot of times people are asking us, well, what happens if I was let go before the CARES Act went into place in April and I was let go in January, February, March.

Sarah Schreiber:

Well, if it's after January 27, 2020 and it's pertaining to COVID, you should most certainly apply. The 13 additional weeks of benefits is very, very big on top of the 26 normal, so up to 39 weeks of coverage if you're still out of work. This also answers some folks questions about having difficulty finding work. Certainly everyone understands we're in this crisis and we're facing this crisis together.

Sarah Schreiber:

A lot of businesses are struggling and not employing people right now or on hiring freezes and that's why this expanded coverage is very, very important. The important thing to also understand, we get a lot of questions about the additional \$600 a week. That is for payments from an accident through July 31st, 2020. Right now, that additional \$600 is only available through July 31st, 2020. After July 31st, 2020, it goes back to your normal unemployment benefits amount for that expanded time period, so the 600 extra is not forever. It's not through all of 2020 through December 31st, so keep that in mind.

Sarah Schreiber:

The next application is this waiting week period. There are seven States in the country that had a waiting list before you were eligible for unemployment where you wouldn't get paid. That's no longer in effect, so the CARES Act now has the government fully funding that initial week of unemployment, so there should not be a delay even for individuals in those seven States.

Sarah Schreiber:

The fifth application also is helping non-profits, government agencies and Indian tribes. I don't think we had any questions specifically pertaining to those, but know that the CARES Act can provide you with some additional information if you're a non-profit government agency or an Indian tribe employee or someone who is wondering about benefits.

Sarah Schreiber:

I also want to cover some general questions that we receive and there are in no specific order, but these are common things that we're hearing a lot. I started to touch on this, the hangups, the difficulties and trying to reach on employment and the frustration that people are feeling, trying to get through in their own States. You should first look at your individual State webpage and see what they're recommending. Each State is likely recommending something slightly different. For example, in Colorado, if any of you are from here, our State webpage is saying if your last name is A through M, you should apply on certain

dates and certain times potentially. First go to your own State's webpage to look at what they're recommending.

Sarah Schreiber:

Now we're hearing a lot of frustration that the webpage isn't addressing concern. Make sure you look for a frequently asked questions page, start there. Also, if you're having difficulty completing applications, it's recommended that you try to apply sometimes in the middle of the night, as awful as that sounds or very early in the morning, obviously not the weekends, the weekends are probably the worst days, or first thing Monday morning. Try to find an odd time to apply.

Sarah Schreiber:

Make sure you're saving your applications frequently, like an abnormal amount of time to make sure you click the save button so that you can try to get back to where you are. It's very important for you to just keep going through the process however frustrating it is so that you can make sure that you eventually do get through, and keep trying. There's no reason to give up, especially while this additional \$600 extra payment is in effect.

Sarah Schreiber:

Second, as mentioned before, always apply for unemployment. If you were let go, laid off pertaining to coronavirus, your business was affected. Even if you're not a worker, that would typically be qualified, go ahead and apply. There's no penalty. You should do that. If your income has been cut by COVID and you have decreased work hours, you should still apply for unemployment. Again, no penalty for being wrong.

Sarah Schreiber:

If you're working for more than 32 hours a week or earning less than your weekly amount that unemployment benefits would pay, which is approximately 55% of your average wage over a 12 month period, then you're likely eligible for unemployment. That could change state to state. So make sure that you do apply and let them know that you have reduced hours, because a lot of employers are in fact doing that to try to keep employees on. They're reducing all of their staff hours in an effort, and so depending on how much your hours are reduced, you very well still may be able to supplement your income by applying for unemployment, so go ahead and do that.

Sarah Schreiber:

If your unemployment office determined... Well the question is what happens if you're applying for jobs and you're turning down jobs? If your unemployment office determines that you're turning down, let's call it a suitable job, you could potentially lose unemployment benefit. If that happened to you, you can appeal your unemployment office's decision, but you probably won't receive benefits during that process.

Sarah Schreiber:

We used to apply either online. Sometimes there was a button to press once you get a decision and you just type in a few sentences to initiate your appeal, or depending on your state, you might have specific instruction. Either way, if you end up being denied unemployment benefits, you have the ability to

appeal that and if you think that you were wrongly denied, you should have gotten those benefits, then you most certainly should appeal.

Sarah Schreiber:

Again, there's no penalty for you doing that. So each state is going to set different standards to determine if a job's going to be considered suitable. Suitable work means a job that offers wages comparable to your recent employment and work duties that corresponds your education level and your previous work experience. That's the general definition, but each State's unemployment office is going to analyze whether there was a valid reason you turned down a job, so be careful about that because obviously the goal is to get back into employment not to use the benefits unless they're necessary, and so you may find yourself in a situation where you get denied if you've been turning down work.

Sarah Schreiber:

Another question we received and I offer this to let you know I'm not an immigration attorney and I can't give any immigration status advice, but we received some questions about non-citizens and whether they can receive unemployment benefits. Likely if you're going through this process, you might be familiar with the public charge rule. The understanding is that receiving unemployment benefits is not counted as a negative factor under the public charge rule and also with respect to getting some COVID treatment you're allowed to some necessary medical treatment or preventative services, and that treatment or preventative services should not negatively affect any alien or part of a future public charge analysis.

Sarah Schreiber:

In addition, we have see some questions about whether or not you're going to be effected by COVID if you already have an active case. An active case meaning let's say you filed for discrimination or wrongful termination, you may already be involved in an administrative or a civil process, so COVID could be affecting those cases. Most certainly it's a case by case specific analysis that you'd have to go through if you're working with an attorney or if you're handling it on your own, you'll have to consider certain factors, right? The company, the industry, a company's ability to pay. It depends who you have filed a charge against or who you believe has wrongfully terminated you.

Sarah Schreiber:

They're most certainly maybe ramifications that we've seen and we've heard depending on the type of nature of the business and whether they're even still operational or whether they're bankrupt, and so there's going to be factors that come into play with respect to your current and ongoing case. This may be something that you can ride out depending on what the timeframe in your case and what deadlines you have. Maybe the business will recover if you're early on in your case, but again, this would be an analysis you'd have to go through if you have an attorney speak to your attorney. If you're doing it on your own, make sure you consider those factors as you go forward.

Sarah Schreiber:

Another question that we got was what if you just can't find a job because of coronavirus? Unfortunately, I think that's a very common question and fear that a lot of people have. You should still keep applying. You should still keep looking. You should maybe consider whether or not you're willing to take a different type of employment than you originally were in depending on how important it is for you to start working again. I think you should continue all of your efforts is the long and short but it is

going to be a difficult time, but it's not an impossible time depending on what you may be looking for and think creatively and look around on your individual States, news outlets or websites to see a lot of grocery stores are hiring and certain types of businesses are actually still looking for employees, so make sure you keep trying as frustrating as the situation may be.

Sarah Schreiber:

Another question I wanted to address is being denied unemployment benefits. I guess I touched on this. Remember, you can appeal and you should look at how to do that. Keep in mind that there's also going to be a timeframe and you must appeal within that timeframe. So make sure you read whatever notices you get so that you're aware of what your timeframe is to appeal and go forward with that process especially if it's COVID related.

Sarah Schreiber:

Another very common question. Last one I want to address the frayed move on to the stimulus is whether or not if you use vacation or sick leave. We get questions about furloughed workers. Those are people who have been... They haven't been laid off from their company, but they're no longer working, but they are still technically employees. You're going to have to look at your company's policy and whether or not you want to choose, use, pay leave or vacation time for any of your [inaudible 00:48:01] weeks that aren't worked while you're furloughed.

Sarah Schreiber:

If you do, do that, while you are allowed to apply for unemployment and should, if you're furloughed because you are eligible. If you do start getting paid vacation or paid sick leave and you get additional pay from your company, that very well could affect your start date for unemployment benefits or it could push out the unemployment benefits that have been paid two yields, because income from the company is considered the additional wages and they'll factor that in when you're looking at unemployment.

Sarah Schreiber:

So that covers most of the questions we received on unemployment, if not all of them and I just want to briefly touch on stimulus check, because I know a lot of people are wondering when and how and frustrated at this point if they haven't received them. So the following people will receive a stimulus check automatically. If you're a US citizen or permanent resident and you filed federal income taxes for 2018 or 2019, if you meet the income threshold.

Sarah Schreiber:

Also, if you receive Social Security retirement disability like SSEI or survivor benefits or you receive Railroad Retirement Benefits. Those individuals automatically should get a single list check if you meet the income threshold. How much can you get? Well, the maximum amount of your stimulus checks, it depends on your adjusted gross income that you reported on your federal tax return subject to income threshold. So individuals, 1,200, married couples, 2,400, dependent children who are under 17-years-old, \$500.

Sarah Schreiber:

What are the income thresholds? The good news is there's no minimum adjusted gross income threshold, but there is a maximum income threshold and your stimulus check amount, it phases out and gets reduced by \$5 for every \$100 above a certain income level based on your tax filing status. If your adjusted gross income is less than that amount, you're going to get a similar check for \$1,200 or the \$2,400 for a married couple filing jointly.

Sarah Schreiber:

For a single filer to income threshold is \$75,000, the head of household is \$112,500, the married joint filer is \$150,000. There's also an income that you will not qualify for a stimulus check. If your income is greater than these amounts, you wouldn't get a stimulus check. That's the single filer of \$99,000 or a joint filer no children, \$198,000. When are the checks and stimulus supposed to come? Well, the first check were sent out as early as April 9th via direct deposit to those taxpayers that had provided their direct deposit information on your 2018 or 2019 federal tax return. Check your bank account to be sure and see if you already received it. However, most direct deposits are actually anticipated to arrive by today, April 14th. Again keep checking and seeing whether or not it appears in your bank account.

Sarah Schreiber:

If you did not provide direct deposit information, a paper stimulus check is supposed to be mailed to you. The IRS is supposed to start sending paper stimulus checks beginning April 24th. Approximately five million checks are expected to be mailed each week and it's supposed to start with taxpayers with the lowest adjusted gross income. Therefore, if you are expecting or anticipating getting a paper check, it could take several months and you may not get it until between May and September depending on your adjusted gross income.

Sarah Schreiber:

As of April 17th so... Well that's three days from now, the IRS was supposed to or is supposed to release a new online tool called get my teammate. I did go to that website and I'm going to provide it to you here. It's www.irs.gov/coronavirus/economics-impact-payments that should allow you and enable you to put in your direct deposit information. That would help with the stimulus checks faster. I would look at the website and try it if you are one of those individuals that hadn't done the federal filing via direct deposit before, see if they're assessing it as early as today, but my research shows that April 17th, it should at least be released or they're providing an updated version so that might help you get your stimulus checks faster even if you didn't previously provide direct deposit information.

Sarah Schreiber:

All right, that covers my unemployment and stimulus check section. So talk to you guys about, I'm going to turn it back over to Dan.

Sarah Schreiber:

Dan, are you there? Hold on a sec, we're having technical issues. One moment please folks, thanks for being patient with us. All right, so Dan is here. We're having a technical issue. He'll be back on, but wanted to let you know that if we haven't answered your question and you have an additional question, please feel free to write to us at coronavirus@hkm.com, C-O-R-O-N-A-V-I-R-U-S@H-K-M.COM. Have that open and we're looking for your questions if you have something that we haven't covered, if we have covered your question, we still appreciate you spending this much time with us today. We hope that this information was helpful and if you want to stay on and listen to the questions that we're responding to,

we're happy to help, so feel free to get online and send us an email if we haven't covered your questions.

Daniel Kalish:

Thanks. Can everyone hear me now? I apologize.

Sarah Schreiber:

Yeah, we can hear you.

Daniel Kalish:

Okay. Yeah, and again, thanks for attending. If you have a specific question, you can write at coronavirus@hkm.com, we will not discuss your name or the specific situation for your privacy and confidentiality, but we're happy to sort of do our best to answer and I think we'll stay on for about five more minutes just to see if we get any specific questions.

Daniel Kalish:

Okay. Again, I think we haven't had any specific questions yet. We'll give it probably about one or two more minutes. Again, it's at coronavirus@hkm.com if you have any specific questions

Daniel Kalish:

Okay. Well with that I think we will wrap up. Again, thank you all for listening. At this point we're going to try and do this at least once a week and to additionally go through and try to answer everyone's issues that they have. We do have a few issues. Let me quickly get to that.

Daniel Kalish:

The first question is, is someone wrote in saying that they are an independent contractor and are self-employed and the question is can they apply using the PPP and SBA loan? The answer to both those questions is my understanding is yes. I don't know specifically about the SBA loan, but I do know about the Paycheck Protection Program is that self-employed individuals can apply to that program and the best way to do that is go to your bank and if you don't have a bank then the second best way is to go to the SBA website, type in Paycheck Protection Program. They will have a list of lenders who hopefully that you can work with and are prepared to get a loan.

Daniel Kalish:

Yes, you can do that to pay both utilities and mortgage. I'm not sure if it's a rent, but I know you can do it on utilities and I believe rent. I believe both, again you want to check the guidelines and again, it's a forgivable loan as long as you spend the money on a particular categories including payroll, rent, utilities, that type of thing.

Daniel Kalish:

Okay. Hold on a second.

Sarah Schreiber:

Dan, you want me to cover the unemployment one?

Daniel Kalish:

Yeah, that'd be great and then yes.

Sarah Schreiber:

Okay. Great. We received a question from someone about an unemployment claim in December 2019 and benefits being exhausted in a couple of weeks and I'm glad to hear this 600 bonus was received. So under the CAREs Act, the expansion is for up to 39 weeks and it's supposed to go through December 31st, 2020, if it's related to COVID. So if for example your benefits are exhausted, you should still be eligible for expanded coverage up to that 39 weeks, so if you've already exhausted your 26 weeks, there should be an additional 13 weeks of benefits that may be provided to you if you're remaining unemployed due to COVID. Thanks for your question.

Daniel Kalish:

Got it. We have somebody else who wrote in that basically quit their job because they were concerned about spreading coronavirus to family members. This is a common question that we get and the basic idea is I think if that's the case, I don't know if there's any protections necessarily that would protect you from a discrimination standpoint. I think there might be a few things to do is check to see if they violated any OSHA requirements for keeping the place safe. That's number one and then number two is they definitely think you should apply for unemployment benefits.

Daniel Kalish:

Again I don't know if you're going to get them in this particular circumstance, but States are being more flexible and granting unemployment benefits, as long as you're upfront and honest with them, there's almost little downside to actually applying. It's just very difficult to get into the application, so thank you for your question. Okay. Shelby, I think you're taking the next one.

Shelby Woods:

Yeah. Thank you. So this is another question about an individual who has medical conditions, including a medical condition that could be more susceptible to any kind of complications if they were infected by coronavirus, and it looks like they have already taken leave, which would be a reasonable patient related to that medical condition and they were required to come back to work and have face-to-face contact with individuals who might be infected or at least have a high risk of infection.

Shelby Woods:

I would encourage that individual to continue forward with the accommodation process. You don't just get one opportunity to request an accommodation related to what could be a disability. So there can be other accommodations that would potentially minimize the risk that you would ultimately be infected with the coronavirus. That could be things like further protective equipment like a face mask. It could also be your employers sort of cooperating with you and trying to maintain social distancing to the extent that is possible could also be further leave.

Shelby Woods:

So if you've only taken, for instance, a month, I believe you may be still entitled to more leave. Related to your health condition, it's really going to be a question on whether the accommodation that you're requesting is something that could cause the company and undue hardship. In an undue hardship it's

going to be really focused on sort of the size of the company, whether they're able to sort of easily sort of reallocate your job responsibilities to other individuals, but the most important thing is that any time that you request accommodation, it's also express your willingness to sort of work with the employer and consider any alternatives that they think might be sufficient to sort of ameliorate your concerns and at the same time allow you to continue your employment through either something like a modification to your normal duties or something that would again constitute another period of leave.

Shelby Woods:

Also, a part of this question asks for what might happen if that individual ends up resigning from their employment and whether that might affect their entitlement to unemployment benefits. As far as resigning from your employment, you're going to be the individuals who are in the position to sort of judge what's going to be best for your wellbeing, but I can tell you in terms of maybe leaving open the possibility that you would be able to pursue claims against the company related to that loss of employment. Generally speaking, it is much more difficult to do that if you do end up resigning from your employment.

Shelby Woods:

Even if you feel like you're forced into that resignation, it's a really high standard to prove that that resignation was actually involuntary in nature, so that's just something to keep in mind in case that you do potentially want to leave options available to you to potentially pursue a claim against the company in the future.

Sarah Schreiber:

We received a followup question regarding the exhausted benefits that are coming up about what you have to do to get that extension or whether it will happen automatically. The Department of Labor website discusses with this respect to the extension, something for you to keep in mind is that your State agency, so depending on what State you're in is going to advise you of your eligibility for those extended benefits, and so you should definitely apply for them and continue applying for them because that's what they're there for the additional 13 weeks, but your own State is going to have to advise you of your eligibility because not everyone who qualifies for the regular benefits gets to be accepted, but you could make sure that you say it's through the COVID and that you're continuing your job search and you're doing all of the things necessary, and so as you get to the end of your exhaustion period, you're going to continue to log in and you're going to seek those benefits and again, if you end up getting denied at some point for continued benefits, make sure you go forward and file your appeal.

Daniel Kalish:

Got it. Thank you. Again, thank you all for... It looks like that was the last of our questions again. Please recognize that this is for informational purposes and if you have a specific issue, obviously contact a lawyer in your jurisdiction, but we did want to give everyone that kind of a general sense of the national framework at least to for those people who can make their decisions. In addition we will be updating the website with FAQ frequently, so please check that and it looks like we got one other one. So Sarah, do you want to take this one?

Sarah Schreiber:

Sure. It looks like someone is asking about an open claim but benefits exhausted in February, and how would you get the additional 600? Again, similar to what I said before the \$600 is additional that's

COVID related, and so your State's unemployment office is going to determine your eligibility for those benefits, and so if you're not getting those benefits, you're going to have to, as frustrating as it is, reach out and find out why you're not eligible or why you're not getting it.

Sarah Schreiber:

If you feel like you're being denied those benefits and you get a decision saying you are not entitled for them, you could certainly appeal, but your own State agency is going to make the decision about whether or not you're eligible based on what your original claim was and then your ongoing period of benefits, when it would be exhausted and any decisions about the additional 13 week and eligibility for that.

Daniel Kalish:

Got it. Thank you. Somebody else asked this kind of how to find a good lawyer in a particular area. One of the things we suggested, just kind of going on Google. If you Google any type of sort of employment lawyer or employment attorney and you type in the city, you'll get a list of various names of people who we have found have been generally pretty good. Okay, well I think that will conclude our round table for today. Again, please check the websites, stay safe and of course we wish all of you the best of luck. Okay. Thank you.