

MELICK & PORTER, LLP COVID-19 MEMO:

Melick & Porter, LLP provides you with the below update regarding the impact of COVID-19 on issues relating to insurance in the United States. The below is not meant to be all-inclusive, but provides an overview as to the trends in the United States. If you have any questions regarding any of the updates below, please do not hesitate to contact us.

SUMMARY OF IMPORTANT LEGISLATION AND EMERGENCY ORDERS AND DIRECTIVES:

Below we provide an overview as to the types of legislative actions that have been occurring, both on a federal and state level.

- The Trump Administration rescinded its July 6, 2020 directive, which would have prohibited F-1 and M-1 International students from remaining in the United States if their full course-load will be conducted online for the fall 2020 semester. Temporary measures adopted in March of 2020 will continued to be applied by ICE, allowing F-1 and M-1 students to take more online courses than normally permitted while continuing to maintain their nonimmigrant status.
- The District of Columbia recently adopted a new version of emergency laws requiring employers to provide both paid and unpaid leave to eligible employees for certain COVID-19 related reasons. The Mayor signed the Coronavirus Support Emergency Amendment Act of 2020 and the Coronavirus Support Clarification Emergency Amendment Act of 2020 (together, CSEA) into law on May 27, 2020 and July 7, 2020.
- On July 14, 2020, the House Committee on Financial Services announced the additional hearings in the month of July. The full Committee will convene for a hearing titled, “The Heroes Act: Providing for a Strong Economic Recovery from COVID-19.”
- The House Small Business Committee held a hearing examining potential legislative solutions to help small businesses recover in the wake of the COVID-19 crisis.

INSURANCE AND COVERAGE RELATED NEWS AND ORDERS/LEGISLATION:

Below we provide an update as to regulations, news, and litigation specifically related to insurance and potential coverage.

- An unexpected issue faced by property & casualty insurers during the COVID-19 pandemic has been premium refunds to policyholders – especially on personal auto policies. The refunds and rebates have been justified by the reductions in auto claims and losses because of less driving as people have sheltered at home and as stores and restaurants have opened with restricted operations.

- Beginning in late March, many insurers began voluntarily issuing partial premium refunds to personal auto policyholders. In addition, some state insurance commissioners have mandated auto premium refunds because of the reduction in miles driven.
- Under COBRA, people who lose their job-based coverage because of a layoff or a reduction in their hours normally have 60 days to decide whether to continue with that same health plan. However, under the rule issued this past spring, that time period doesn't start ticking until the end of the COVID-19 "outbreak period" that started March 1 and it will continue for 60 days after the COVID-19 national emergency is declared to be at an end which has yet to be determined.
 - With this extension of the time frame to sign for up for COBRA coverage, people have at least 120 days to decide whether they want to elect COBRA, and possibly longer depending on when they were laid off.

BUSINESS AND COMMERCE NEWS AND LEGISLATION RELATED TO COVID-19:

Below we discuss news regarding the economic impact of COVID-19 and measures being taken to address that.

- Centers for Medicare and Medicaid Services (CMS) recently announced that it intends to resume both prepayment and post-payment medical reviews conducted by the Medicare Administrative Contractors, Supplemental Medical Review Contractors, and Recovery Audit Contractors, on August 3, 2020.
- United States Food and Drug Administration (FDA) announced on July 10, 2020 that it will resume domestic inspections of regulated facilities and activities using a new risk assessment rating system.
- Last week, 1.3 million Americans filed for unemployment claims, according to numbers released by the Labor Department Thursday. Nearly 32 million American workers are now receiving jobless benefits.
- On July 15, 2020, the Federal Reserve updated its Main Street Lending Program FAQs addressing waiving of the CARES Act capital distribution restrictions with respect to tribal businesses paying dividends to tribal governments (FAQs E.2, H.15, H.2) and by incorporating recent changes made by the Small Business Administration to its "Ineligible Business" definition in relation to the Paycheck Protection Program (FAQ E.1).
- The National Credit Union Administration (NCUA) announced that funding for COVID-19 urgent need grants have been fully utilized and new applications will no longer be accepted.

LITIGATION/CIVIL JUSTICE SYSTEM UPDATES AND ORDERS:

Below we, highlight additional judicial orders related to the COVID-19 pandemic.

- Courts continue to implement safe practices in accordance with the respective states' guidelines and the federal Centers for Disease Control and Prevention.
- The Massachusetts Supreme Judicial Court outlined that courthouses will physically reopen to the public for limited purposes, including some in-person proceedings, on July 13, 2020, but courts will continue to conduct most business virtually. The number of in-person proceedings will further expand during a second phase beginning on August 10, 2020.
- The Massachusetts District Court for the District of Massachusetts has released an Order allowing for renewed in-person proceedings in limited cases.
 - The Supreme Judicial Court issued new orders last week spelling out the logistics for public attendance at courthouses that reopened on July 13th. Members of the public will be subject to screening, including temperature checks, and will be barred from entry if they fail to wear a mask or fall into high-risk categories such as a COVID-19 diagnosis, living with someone with COVID-19, or awaiting test results for the disease.