

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.

- On July 27, 2020, Republican Senators released the [Safe to Work Act](#) (“the Act”). The Act was released as part of the Senate Republicans’ draft coronavirus legislation, the HEALS Act, which stands for Health; Economic Assistance; Liability protection; and Schools. The Act seeks to limit liability for healthcare providers and facilities related to the treatment, diagnosis or care directly affected by the coronavirus.
- On July 27, 2020, the Senate Finance Committee released draft legislative provisions of the “COVID-19 Bill” regarding the next iteration of Coronavirus relief.
- Democrats and Republicans continue to be in [gridlock](#) as Congress is on the cusp of the deadline on unemployment benefits. At this point, Democrats have come together as a caucus and already passed legislation while Republican lawmakers and the White House are unable to come to an agreement.
- The U.S. House of Representatives on July 29, 2020 passed the “Child Care for Economic Recovery Act” ([H.R. 7327](#)), the bill aims to provide relief in response to the coronavirus pandemic. The bill contains tax provisions including measures that would:
 - Modify the amount, refundability, and other provisions of the child and dependent care tax credit;
 - Increase the exclusion for employer-provided dependent care assistance;
 - Provide a new refundable payroll credit for certain fixed-expenses of certain child care facilities
 - Provide a new refundable payroll credit for certain employee dependent care expenses paid by employers;
 - Allow increased flexibility for dependent care flexible spending arrangements;
 - Expand the employee retention credit to employment of domestic employees; and
 - Provide \$5 million in supplemental appropriations to allow the IRS to make grants under the Community Volunteer Income Tax Assistance Matching Grants Program.

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.

- There has been evolving state insurance regulatory activity related to the coronavirus pandemic. State insurance regulatory authorities have issued emergency rules and regulations, notices and bulletins, containing both directives and guidance, as well as requesting information related to the COVID-19 outbreak.

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.

- The United States Department of Labor published a [letter](#) confirming that a plan fiduciary may include an allocation to private equity as part of a professionally managed, diversified investment solution.
- Section 2202 of the CARES Act provides that “qualified individuals” may take COVID-19-related distributions from eligible retirement plans (such as Code sections 401(k), 403(b), and 457(b) plans, and IRAs) between January 1, 2020 and December 31, 2020, without incurring the normal 10% early withdrawal penalty and without immediately recognizing the distributed income for tax purposes. Instead, such income is recognized ratably over three years unless the taxpayer elects to recognize the full amount in the current year.
- On July 29, 2020, the U.S. Food and Drug Administration (“FDA”) posted a new template for at-home and over-the-counter COVID-19 diagnostic tests for use in non-laboratory settings. In issuing the template, the FDA stated that its goal is to help facilitate innovation in test development in order to get tests to the market that are simple enough to use in the home, or a similar setting.
- The GDP [plunged](#) 32.9% in the second quarter and 1.43 million workers filed initial claims for unemployment benefits for the week ending July 25, 2020.
- The IRS today released an advance version of [Notice 2020-58](#) to provide taxpayers additional time (through March 31, 2021) to satisfy the “substantial rehabilitation test” under the rehabilitation credit. This additional time is being provided in response to the coronavirus (COVID-19) pandemic.

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 issued an updated order on July 29, 2020, regarding public access to Massachusetts state courthouses and court facilities during the ongoing COVID-19 pandemic. [Supreme Judicial Court third order regarding public access to state courthouses & court facilities](#) (issued July 29, 2020, effective August 3, 2020).
- New Hampshire Judicial Branch notes in-person access remains limited. Only those who are seeking emergency relief, who are scheduled to attend a hearing, report for jury duty, take part in a bench trial in Circuit Court or an in-person delinquency/CHINS hearing, who are parties to a landlord/tenant case and must file required documents or make rental payments, will be permitted access.