

## EMPLOYMENT AND LABOR

# Navigating COVID-19: Top Issues for Employers

The COVID-19 global pandemic has led to rapid and significant changes for employers across every industry. From local and state orders defining essential versus nonessential workers to new federal laws that change leave requirements to organizations reevaluating workforce needs, Manatt's employment and labor team understands that these issues require real-time answers.

We are here to help you figure out the critical decisions that need to be made immediately as well as those for which you need to plan to ensure long-term success.

## Key Issues to Consider

### New Employer Obligations Arising From the Families First Coronavirus Response Act and the Emergency Paid Sick Leave Act

**The Issue:** Congress' enactment of the Emergency Family and Medical Leave Expansion Act has materially changed employer obligations and requirements under the FMLA and presents new challenges regarding coordinating leave and benefits requirements.

**How Manatt Can Help:** No matter what the size of your company, we can help you figure out how these laws help you and any employees whom you may have to furlough, fire or give time off.

### Local Orders and Guidance Issued by State, City and County Health Departments

**The Issue:** Different cities, counties, regions and states have issued orders and guidance that provide a maze of restrictions on workplace activities.

**How Manatt Can Help:** We work with Manatt's government team to make sure you are staying up to date on the patchwork of laws and regulations that seem to appear almost weekly. We maintain an updated list of federal, state, county and city-specific directives so we can advise you of the vagaries of stay-at-home orders, the exceptions and what happens as they are relaxed.

### Legal Requirements and Restrictions Imposed by Federal and State Laws

**The Issue:** Employers are required to untangle the complex requirements of the ADA, state sick leave, medical and family leave statutes, federal and state health and safety requirements, and privacy rights in the context of employee illness, absenteeism, remote work requests and related issues. One of the most complex areas of employment law is balancing the rights and obligations related to state and federal sick leave and disability statutes with workplace safety requirements under OSHA and state counterparts, and the need to protect individual rights to privacy under state law and HIPAA, if applicable.

**How Manatt Can Help:** Manatt can address employers' key concerns during the COVID-19 crisis, including ensuring employers' medical inquiries of workers are consistent with the ADA; avoiding discrimination; planning for and managing telecommuting; and taking appropriate steps if widespread disruption requires that portions of a workforce be laid off.

## Elimination of Positions, Schedule Changes, Reductions in Force, Furloughs and Other Cost-Saving Measures

**The Issue:** The economic harm that the pandemic is creating is predicted to last for a significant period of time. Many businesses, in order to survive, will have to determine how to reduce labor costs and related workforce expenses.

**How Manatt Can Help:** Manatt can help businesses plan workforce reductions to minimize exposure to state and federal discrimination laws including wage and hour laws, WARN Act and state-specific mini-WARN requirements, and related considerations.

## Guidance on Health and Safety Regulations to Return to Work

**The Issue:** We don't know when businesses will reopen, but when they do the workplace will look utterly different than it did two months ago. Your company will have to make sure it complies with federal, state, city and county regulations. The rules we're used to, such as not asking employees about their medical conditions, may change as employers test staff, require masks and reconfigure floor plans.

**How Manatt Can Help:** Working with our healthcare, privacy and government teams, we can provide clients with guidance on returning to work while complying with privacy and health and safety regulatory requirements. Facing these challenges will require real-time answers, and Manatt will be there for you as your business restarts and rebounds. We are here to answer your concerns and questions to ensure the health and safety of your returning employees and customers.

## Remote Work Environments

**The Issue:** A remote workforce can lead to additional potential exposures, including federal and state wage and hour violations, loss of protection of confidential business information and intellectual property, reduced productivity, and privacy- and security-related issues.

**How Manatt Can Help:** Manatt can help devise policies, procedures and approaches for businesses to achieve maximum effectiveness from remote workers while developing necessary business protections.

## We're Here to Help:



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