



EMPOWERING PLANS SINCE 2000



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**COVID-19**

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The CARES Act & Workplace Safety FAQs

March 30, 2020

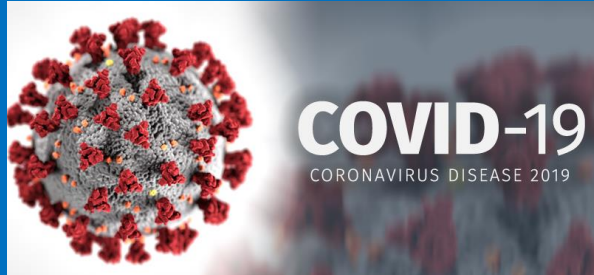


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## Phia Group Consulting

### STAY AHEAD OF CORONAVIRUS



Contact Us At [PGCReferral@phiagroup.com](mailto:PGCReferral@phiagroup.com)  
with any and all questions on COVID-19

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## Overview

- The Latest on the Pandemic
- Government/Industry Response
- The CURES Act (\$2.2 Trillion Recovery Package)
  - Impact on Workers
  - Impact on Employers
  - Impact on Health Benefits
- Workplace Safety
  - Official Guidance
  - Frequently Asked Questions

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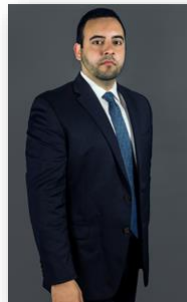
## Today's Speakers



**Ron E. Peck, Esq.**  
Executive Vice President  
& General Counsel



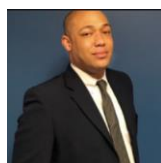
**Jennifer M. McCormick, Esq.**  
Sr. Vice President, Consulting



**Brady C. Bizarro, Esq.**  
Director, Legal Compliance  
& Regulatory Affairs

Special Guest:

**Philip Qualo, J.D.**  
Compliance & Regulatory  
Affairs Consultant



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## ICE

Unlimited Access to Our Industry Experts – Independent Consultation and Evaluation  
by The Phia Group Is Available Any Time, for Any Question, Without Limit

### Legal Compliance & Regulatory Consultation

- **ACA** – Notice Requirements, Employer Mandate Rules, EHBs, and Section 1557
- **COBRA** – Rules and Requirements Including Offers, Timing, and Notices
- **ERISA** – Preemption of State Law, Fiduciary Duties, Reporting, and Disclosures
- **FMLA and Leaves of Absence** – Plan Document and Handbook Coordination
- **HIPAA** – Data Privacy Regulations and Nondiscrimination
- **IRS Regulations** – HDHPs, HSAs, FSA, and HRAs

### Complex Claim Reviews

- Assess Claims Incurred Against Plan Document and Stop-Loss Policy Language
- Claim Issues Include: Eligibility, Exclusions, Coordination of Benefits, and More

### Plan Document Assessments

- Plan Document Assessments, Phia Certification, and Gap Free Analysis™

### Third Party Contract Analysis

- Administrative Services Agreements (ASA), PBM and Other Vendor Contracts
- Stop-Loss Policies, Network Contracts (Including PPO, EPO, and Wrap Networks)

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## ICEPlus

Where Health Benefit and Employment Based Issues Meet  
In Addition to ICE, Enjoy Unlimited Access to:

### Consultative Guidance

- Federal and State Employee Leave, EEOC Rules and Discrimination
- Multi-State Law Comparison: Including Remote Employees
- Drug and Alcohol Policies and Testing
- Social Security and Medicare Regulations
- Federal and State Reporting Requirements
- Independent Contractors and Employee Classification
- FMLA, Disability, ADA and Reasonable Accommodation
- Federal and State Notice and Poster Requirements
- Harassment and Sexual Harassment Prevention
- Investigations and Best Practice Marijuana Laws

**Phone:** (781) 535-5600

**Email:** [info@phiagroup.com](mailto:info@phiagroup.com)

**Website:** [phiagroup.com](http://phiagroup.com)

### Best Practice Reviews

- Employer Policies and Specific Employee Handbook Provisions
- Employer Policy Reviews to Ensure Compliance and Best Practices

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industry news?

**Click on the link below to follow our LinkedIn page!**



*Or...*

Go to LinkedIn and search for *The Phia Group, LLC*

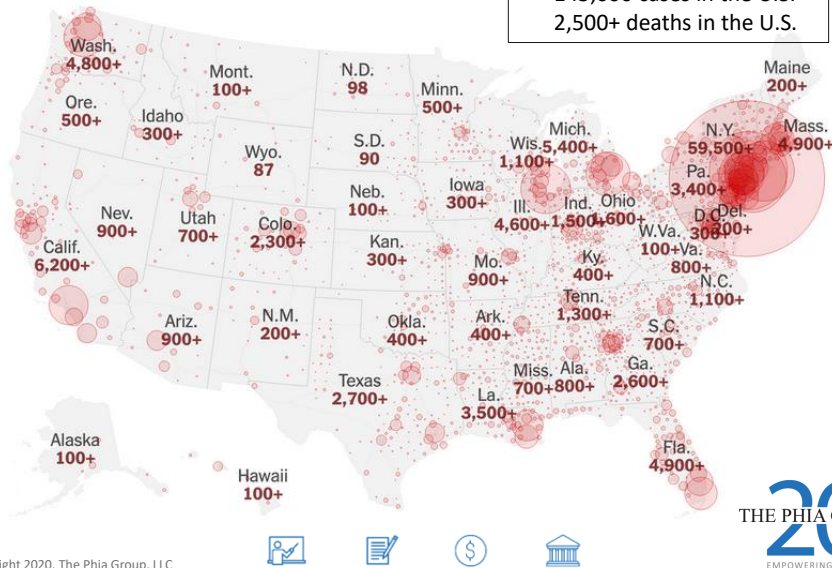
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## The Latest on the Pandemic

725,000 cases worldwide  
145,000 cases in the U.S.  
2,500+ deaths in the U.S.



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## COVID-19 & Employer-Sponsored Insurance

- Coronavirus Crisis Is Fueling Calls for “Medicare for All”
- Unprecedented Rise in Unemployment
  - 3.2 million out of work for week ending 3/21
  - Could be another record for this week
  - Many will lose health coverage in unemployment
- What Options Are There for Those Losing Their Jobs?
  - COBRA
  - Special enrollment period on the ACA’s private insurance markets
    - Lower-wage workers may qualify for federal subsidies
  - Medicaid (for some who qualify)
- Medicare for All Would Not Have Helped
  - Single payer systems around the world are being ravaged too (Italy, Spain, China, UK, France)
  - Testing was the issue, not private insurance



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## Government/Industry Response

- President Trump Extends the CDC Guidelines, Including Social Distancing, Until April 30<sup>th</sup>
- FDA Approves New Coronavirus Test by Abbott Laboratories
  - Result in < 15 minutes
  - Last week, another test approved with results in 45 minutes
- Cigna & Humana Waive OOP Costs for All Coronavirus Treatment
  - Administering a waiver for self-insured group health plans
- Private Physician Groups See In-Person Visits Drop by 40-60%
- **Study:** Cost of Hospitalizations Could Spike Premiums by 40% in 2021
  - Analysis done by Covered California, the state marketplace
- Medicare for All Advocates Out in Full Force

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## The CARES Act



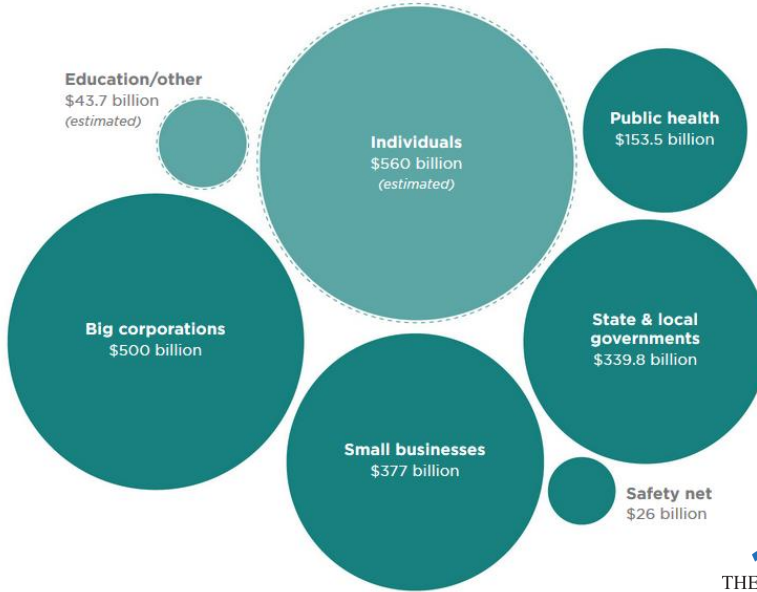
*On Friday, March 27<sup>th</sup>, President Trump signed into law the largest economic stimulus package in modern American history.*

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## The CARES Act



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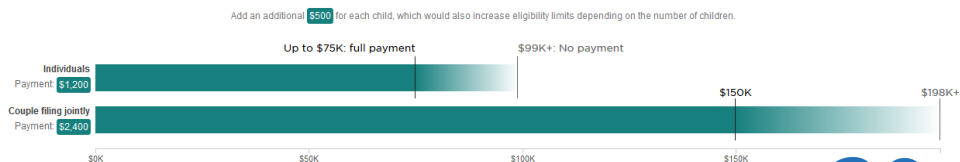


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## The CARES Act

### Impact on Workers

- Cash Payments – \$1,200? See Below
- Unemployment Insurance “On Steroids”
  - Special relief for gig workers and freelancers
- Tax Returns – Deferred Until July 15<sup>th</sup>
- Student Loans – Deferred for 6 Months (Federal)
- Insurance Coverage



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## The CARES Act

### Impact on Employers

- Emergency Grants
  - \$10b for grants of up to \$10k to cover operating costs
- Forgivable Loans
  - \$350b allocated for Small Business Administration loans, up to \$10m per business. Any portion used for payroll, rent, mortgage, certain debt could be forgiven (8 weeks' worth)
- Relief for Existing Loans
  - \$17b to cover 6 mos. of payments for companies already using SBA loans
- Fully Refundable Tax Credit
  - For businesses that are closed or distressed
  - To get EEs rehired or put on paid furlough
  - Covers 50% of payroll on first \$10k of compensation, including health benefits, for each EE

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## The CARES Act

### Impact on Health Benefits

- Self-Funded Plans Must Cover All Testing for COVID-19 Without Cost-Sharing
  - Expansion of FFCRA requirement
  - Even tests that have not received emergency use auth. from FDA
  - Diagnostic testing – What does it include?
- How Much Will Plans Pay for COVID-19 Diagnostic Testing?
  - Either the negotiated rate, or, if OON, the lesser of the cash price for the service as posted by the provider on a public website (or a different negotiated rate)
  - Providers subject to civil fines if they fail to publish rates
- Preventive Services & Vaccines
  - Vaccine (when developed) must be covered at no cost to patient
  - Includes all qualifying preventive items and services

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## The CARES Act

### Impact on Health Benefits (cont.)

- Telehealth
  - Provides grant money to promote use of telehealth
  - Allows HDHPs w/ HSA to cover telehealth prior to patient hitting the deductible
  - Only for plan years beginning on or before 12/31/2021
- Certain OTC Medical Products Allowed as Qualified Medical Expense
  - Patients can use HSA/FSA/HRA funds to purchase OTC medical products needed in quarantine and social distancing, without prescription (specifically menstrual care products)
- Allows FDA to Approve Changes to OTC Drugs Administratively, Rather Than Through Notice and Comment Rulemaking
- Specific Guidance on PHI
  - Requires HHS to issue guidance on sharing patient PHI during the COVID-19 emergency within 180 days

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## The CARES Act

### Impact on Public Health

- Hospitals - \$100 Billion
- Community Health Centers - \$1.32 Billion
  - These provider health care services for ~28 million people
- Drug Access for Treatment
  - \$11b for diagnostics, treatments, and vaccines
- CDC - \$4.3 Billion
- Veterans' Health Care - \$20 Billion
- National Stockpile - \$16 Billion
  - To increase availability of ventilators and PPE
- Food Banks/SNAP - \$16 Billion

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## Clarification to the Families First Coronavirus Response Act

- A Clarification to the Families First Coronavirus Response Act
  - Paid leave under the extension of the Emergency Family and Medical Leave Expansion Act may not exceed \$200 per day and \$10,000 in the aggregate for **each** employee. The bill previously did not state “each employee,” though this was implied
- Temporary Non-Enforcement Until April 17, 2020



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## Workplace Safety Issues

### New Guidance Published



- Occupational Safety and Health Administration (OSHA)
  - Guidance on Preparing Workplaces for COVID-19 – additional precautions for employers to take based on four risk zone categories (very high, high, medium, low risk)
- Equal Employment Opportunity Commission (EEOC)
  - Pandemic Preparedness in the Workplace and the Americans with Disabilities Act – updated to address COVID-19
  - “Direct Threat”
- Other Considerations
  - OSHA-Approved State Plans may place additional requirements on employers
  - OSHA’s Hazard Communication standard applies to employers using industrial cleaners (not household cleaners) to combat COVID-19 in the workplace

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## Workplace Safety Issues

### Selected Frequently Asked Questions

- If the state orders a business to shut down because of nonessential status, do they still have to offer the FFCRA Emergency Paid Sick Leave & Expanded FMLA?
  - No. If a business is shut down, an employer is not required to extend FFCRA leave entitlement. Employees would be eligible for unemployment assistance
- If an employer is currently hiring, can they screen applicants for COVID-19 symptoms?
  - Yes. They screen applicants after making a conditional offer, as long as they do this for all entering employees in the same type of job
- Can an employee refuse to come to work based on a fear of infection?
  - Yes. Under OSHA, employee can refuse to come to work only if the employee has reason to believe they are in “imminent danger”

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## Workplace Safety Issues

### Selected Frequently Asked Questions

- Can we require EEs to notify us if they have been exposed, have symptoms, or have tested positive for COVID-19?
  - Yes. You should require the EE to remain at home during this time
  - Note: only providers are required by law to report test results to the CDC
- An employee reported contact with someone who had a presumptive case of COVID-19. What should we do?
  - Act as if the suspected case is a confirmed case. Send home potentially infected EEs. Communicate with affected workers to let them know you are acting out of caution
- An EE has been infected but only found out after they had interacted with coworkers and/or clients. What should we do?
  - Send home potentially infected EEs that she came into contact with. Communicate to third parties that came into close contact with the EE to let them know about the potential of exposure

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**THANK YOU!**

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