

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.

- House Democrats had planned to release their proposals for the Bill 4.0 relief package yesterday but debate within the caucus has delayed their hope for a quick consensus package. House Democratic moderates, especially those in swing districts, have concerns about the expansive size of the leadership's list of priorities and the dollars attached. The challenges for next emergency spending bill also include concerns voiced by some Republicans that the growing deficit needs to be acknowledged – the cost of previous four relief bills is a little under \$3 trillion.
- Several states including Maine, Massachusetts, Rhode Island and New York have implemented phased plans to slowly re-open the states.
- Recent announcements from New York's Governor Cuomo indicate some businesses may begin reopening in phases beginning May 15, 2020. The New York City region will likely be closed much longer than upstate regions based on the state's criteria for re-opening. The state will monitor four core factors to determine if a region can re-open: (1) number of new infections; (2) health care capacity; (3) diagnostic testing capacity; and (4) contact tracing capacity.
 - Each business and industry must have a plan to protect employees and consumers, make the physical workspace safer and implement processes that lower risk of infection in the business.
- The State of New Hampshire issued Executive Order No. 40 which extends Emergency Order #17 (stay at home and closure of non-essential businesses order) to May 31, 2020, along with setting forth business operations guidelines and what businesses may resume operations prior to May 31, 2020.
 - It sets forth general screening, hygiene, exposure mitigation, and social distancing guidelines for all New Hampshire employers and employees that are either providing Essential Services or that are re-opening all or a portion of their operations.

- It also sets industry-specific operating guidelines including but not limited to guidelines for Food Services, Campgrounds, State Parks, Hospitals - Elective Procedures, Manufacturing, and Retail. Certain businesses may resume operations on May 11, 2020 instead of May 31, 2020, including Golf Courses, Cosmetology - Barbershops and Salons, and Drive-In Movie Theaters, and includes guidelines by which those businesses must operate.
- The State of Maine issued Executive Order No. 49 FY 19/20, the Order requires individuals to wear cloth face coverings in public settings where other physical distancing measures are difficult to maintain. The Order extends certain previous COVID-19 related executive orders (including those related to business closures and social distancing) to the extent that they are not affected by the reopening plan and contemplates future interpretive guidance to direct the reopening phases.
- Reopening Rhode Island is a four-phase plan to reopen Rhode Island that will begin May 9, 2020. Under Phase 1, the stay-at-home will be lifted and certain business activities may resume, subject to ongoing restrictions, including: (i) social gatherings limited to 10 people, (ii) masks, hand-washing and increased cleaning should stay in place, (iii) manufacturers and construction sites continue operations under guidance, and (iv) all activities must account for staying 6 feet apart.

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

- Workers' compensation insurers are expected to experience a wide array of impacts from the COVID-19 pandemic ranging from an anticipated loss of premium income, varying effects on claim frequency and severity, and a potential surge of customer touchpoints along with internal workforce disruption.
- On March 29, 2020, the New York State Department of Financial Services adopted emergency regulations amending Titles 3 and 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York providing for relief to insureds from hardships imposed due to the Covid19 pandemic. Insurers are required to notify insurance producers of the provisions of these emergency regulations.
- Several states including Massachusetts, Rhode Island and Connecticut are allowing temporary producer licenses.

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.

- Public Health and Social Services Emergency Fund (PHSSEF) has allotted \$100 billion total to the Provider Relief Fund. \$75 billion is available until expended for the Provider Relief Fund; the language of the appropriation is substantively identical to requirements for the initial \$100 billion appropriation from the CARES Act. \$25 billion is available until expended for necessary expenses to research, develop, validate, manufacture, purchase, administer, and expand capacity for COVID-19 tests, including tests for both active infection and prior exposure, and including molecular, antigen, and serological tests.
- The Department of Labor’s employment report last Friday showed that the health care industry lost more than 1.4 million jobs. While no sector has been immune from significant job losses, the health care sector impact is especially complex since hospitals and other providers were required to ramp up emergency, ICU, and testing capabilities in preparation for the surge in coronavirus cases which was predicted, but elective procedures were suspended resulting in layoffs in nearly all types of outpatient and clinic settings.

LITIGATION/CIVIL JUSTICE SYSTEM UPDATES AND ORDERS:

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

- Massachusetts Courts continue virtual process for emergency matters until June 1, 2020; courthouses are closed to public unless exceptional circumstances.
- Through May 25, 2020 and/or the last day of a Declared State of Emergency, the New Hampshire circuit courts will remain open on a restricted basis, consistent with the Judicial Branch’s obligation to mitigate the risks associated with COVID-19.
- One May 7, 2020, the State of Connecticut Judicial Branch issued judicial guidance stating effective May 18, the Judicial Branch will resume its daily schedule of civil pre-trials, trial management conferences, and status conferences. These events will be conducted remotely, either by video link or telephone. Events that were scheduled to be held between March 23, 2020 and May 18, 2020, will be rescheduled in the near future. Additionally, beginning on May 18, civil arguable motions on all IndiCal calendars that are marked “take papers” will be ruled on by judges remotely on the papers and processed remotely by court staff.
- The State of New York Unified Court System has implemented a system of secure document transmission by court users to judges, clerks of court, and other UCS offices around the State. This system, known as the Electronic Document Delivery System (EDDS), may also be used for filing of documents in pending cases in any courts. EDDS may be used by attorneys, unrepresented persons, and other court users.