

CRISIS MANAGEMENT FOR COVID-19

Week 40, Phase 31: Big Changes in 2021!

Updated Guidance, Legal Changes, and Legislation!

Presented by:
Hanna Resource Group
and
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INTRODUCTIONS



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WHAT WE'LL COVER

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Updated Guidance,
Legal Changes, and
Legislation



Kentucky Chamber

presented by

KYSHRM

SHRM

Strategies to Help Your Workforce
Navigate COVID-19 Fatigue WEBINAR

January 15, 2021 | 10 a.m. - 12 p.m.

<https://www.kychamber.com/events/education/navigatecovid19/registration>

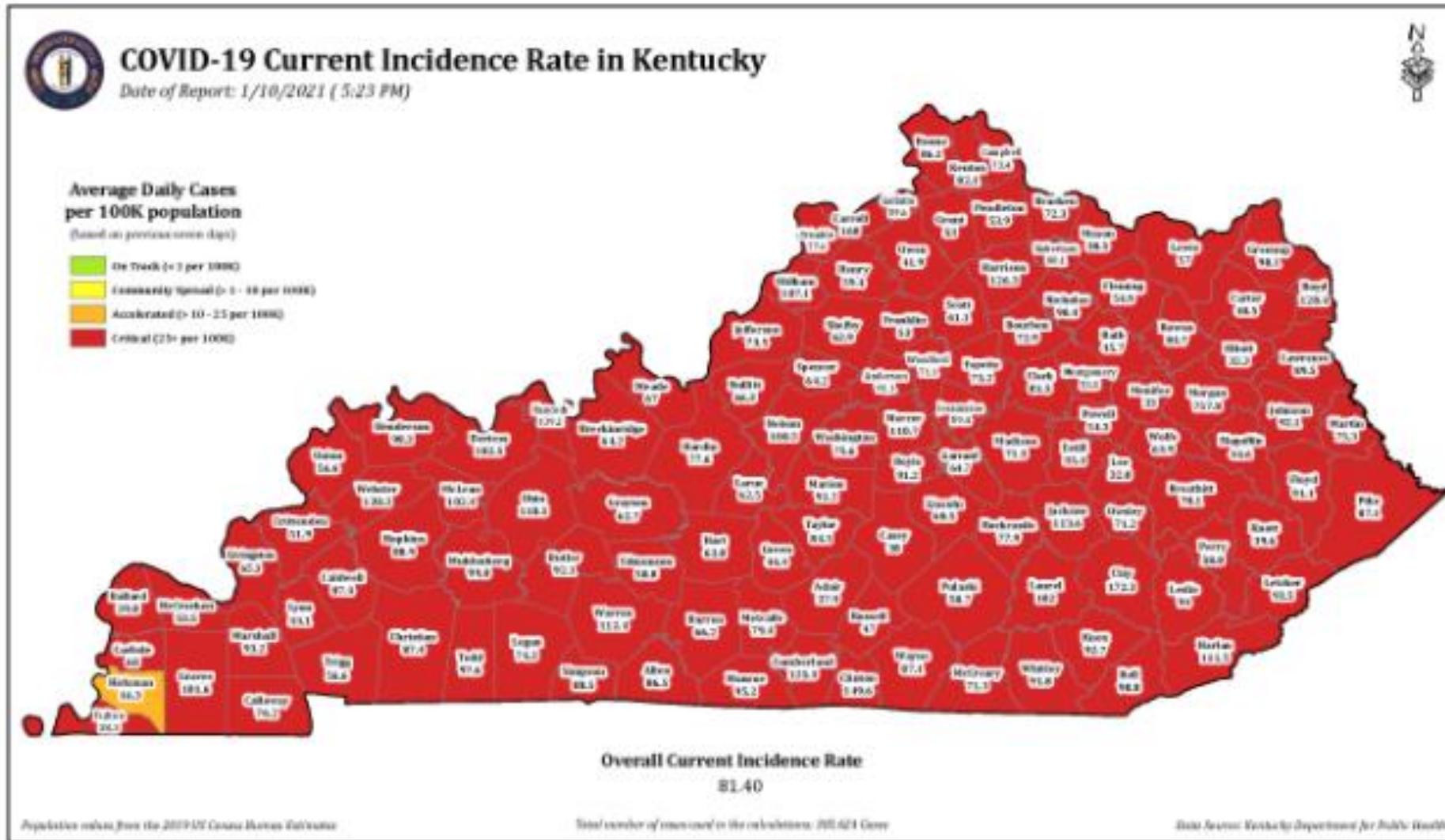


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New Legislative Guidance, Challenges and Changes for Businesses, and Finally Some Clarity



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RED ZONE REDUCTION RECOMMENDATIONS

- Employers allow employees to **work from home** when possible
- Non-critical **Government offices to operate virtually**
- **Reduce in-person shopping**; order online or curbside pickup
- **Order take-out**; avoid dining in restaurants or bars
- Prioritize **businesses that follow and enforce mask mandate and other guidelines**
- **Reschedule, postpone or cancel public and private events**
- **Do not host or attend gatherings of any size**
- **Avoid non-essential activities** outside of your home
- **Reduce overall activity and contacts, and follow existing guidance**, including 10 steps to defeat COVID-19

Kentucky's Legislature is Back in Session and Taking certain action with regard to COVID-19

- SB1: Limits the governor's emergency orders to 30 days unless extended by the General Assembly, and prohibits the governor from issuing a new order related to the same emergency without the legislature's approval.
- SB2: Addresses the governor's emergency administration regulations, while other priority bills filed in each chamber on the session's first day also chipped away at Beshear's gubernatorial powers — not just those related to COVID-19.
- SB3: Moves the Kentucky Agriculture Development Fund from the governor's office to the Kentucky Department of Agriculture
- SB5: Liability protection for owners of premises during a declared emergency (retro.)
- SB24: Requiring Legislature to convene if a state of emergency exceeds 30 days
- SB28, SB37, and SB98: Authorize exemptions for mandatory immunization, precluding the requirement of immunization by any employer and discrimination for refusing

Kentucky's Legislature is Back in Session and Taking certain action with regard to COVID-19

(House and Senate hold veto-proof numbers)

- HB1: Allows a business to remain open as long as it meets or exceeds CDC guidelines
- HB 5: Prohibit governors from issuing executive orders temporarily reorganizing state boards "to push a political agenda"
- HB10: COVID-19 Liability Protection for Businesses and Schools
- HB13: Limit Governor's emergency orders to 28 days
- HB15: Modifying definition of "emergency order"; no greater than 14 days, extended only by Legislature; precluding limitations on worship, etc.
- HB104: Authorizing lawsuits against the Commonwealth for lost income and damages caused by an emergency order
- HB161: Preclude administrative regulations without authority from legislature
- HB171: Substantially limits Emergency Orders (15 days)
- HB217: Substantially limits Governor's actions during Declaration of Emergencies
- HB218: Preclude governor's interference with religious activities and allows claims

*EEOC Issued Vaccine Update (December 16, 2020)
(addressing applicability of EEO Laws, including ADA,
Rehabilitation Act, GINA, and Title VII (pregnancy))*

"EEO laws do not interfere with or prevent employers from following CDC or other federal, state, and local public health authorities' guidelines and suggestions"

- Administration of Vaccine by an employer is not a "medical examination"; prescreening questions are
- Requesting Proof of vaccine is not disability related
- Employers must be mindful of sincerely held religious beliefs and disabilities and must accommodate
- Be mindful of GINA implications in questions or pre-screening
- EEOC heavily suggested outsourcing any vaccines so as not to trigger improper inquiries or disclosures
- Still no guidance, as of now, on Age Discrimination Concerns and accommodations

*Congress Finally Adopts COVID-19 Relief Package
(somewhat)*

12/23/20: \$900 Billion COVID-19 Relief Package --Nearly a 6,000 page Bill!

With the omnibus spending, it is easier to identify what is not in the bill instead of what is!

The following key aspects were not extended or included in the new COVID-19 Relief Package:

- Employer Liability Protections
 - Republicans sought to protect employers that follow government-issued health protocols from COVID-19-related lawsuits and enforcement actions. Democrats opposed these efforts as unfair to workers and consumers.
- Local Government Aid
 - Democrats sought economic aid for S&L governments. Republicans opposed due to potentially bailing out local governments from non-COVID-19-related issues.
- FFCRA Leave – EFMLEA and sick leave expired on December 31, 2020 and were not extended.

*New COVID-19 Spending Bill Details***Breakdown of COVID-19 Relief Spending:**

\$166B in direct checks (\$600 per person, (including immigrants), phased out at \$75k)

\$120B in extra unemployment help

\$284.5B for PPP, including \$35 billion for first-time loans plus \$15B for event venues

Tax Deductions for PPP Businesses and Expansion of employee retention credit

2-year tax break for business meals

33 Tax Break Extenders

Payroll tax subsidy for employers offering workers paid sick leave and increases Earned Income Tax Credit.

\$45B transportation aid; \$13B food stamp benefits; 13B farmers and ranchers direct payments

\$25B federal rental assistance; federal eviction ban extended through the end of January.

\$82B for colleges; \$54B for public K-12 schools; \$23B for higher education; and \$10B for childcare

Over \$50 billion to purchase and distribute vaccines, and for contact tracing/testing

*New COVID-19 Spending Bill Details for Businesses***Unemployment Insurance**

- The legislation extends CARES Act unemployment programs as follows:
 - Standard program will be extended from 12/26/20 to 3/14/21, but lowered from \$600 per week to \$300 per week
 - PUA for those who are not traditionally eligible for UI, was extended to 3/14/21, with a 3-week phaseout to 4/5/21, and increased to 50 weeks instead of 39 weeks
 - PEUC, (additional UI benefits for exhausted state unemployment benefits), is extended to 3/14/21, with a 3-week phaseout to 4/5/21, and increased to 24 weeks instead of 13 weeks

Federal Contractor Relief

- Expiration date for Cares Act §3610 extended through March 31, 2020, to reimburse federal contractors for paid leave provided to employees or subcontractors due to COVID-19, who cannot telework because job duties cannot be performed remotely.

*New COVID-19 Spending Bill Details for Businesses***Tax Issues/Matters**

- A refundable tax credit of \$600 per individual (\$1,200 for married filing jointly), as well as \$600 per child under the age of 17, phased out starting at \$75,000 (\$150,000 if filing jointly)
- Repayment period of deferred payroll taxes extended through 12/31/2021
- Extends the CARES Act's employee retention tax credit
- Medical expenses exceeding 7.5% of income (itemized deductions)
- Permanently established the lifetime learning credit (\$2,000 per person) for higher education; phased out starting at \$80,000 (\$160,000 if filing jointly)
- Discharged Loan Forgiveness: \$350,000 (\$750,000 if filing jointly) – down from \$2MM
- Mortgage insurance premiums up to \$750k
- CARES Act tax waiver for student Loan forgiveness payments of up to \$5,250 made by employers, now extended through 2025

New COVID-19 Spending Bill Details

PPP Details

- **No portal is open yet for application, but SBA issued new guidance**
- Deadline for applications will be 3/21/21
- Businesses can still apply for the original loan (\$15B set aside for 10 or fewer employees)
 - No consideration of 25% year-over-year revenue drop required for second business loans
 - Can use either 2019 or 2020 financials for determining loan calculations
- Any business applying for a second loan must still demonstrate 25% revenue decline
- Maximum loan amount is set at \$2 million
- Temporarily closed businesses are still eligible; permanently closed businesses are not
- If using the same lender and the same time period to calculate its second PPP loan, no additional documentation is required by the SBA

*SBA Issues Two PPP Interim Final Rules regarding original PPP Loans and Second Draws***SBA PPP Details Issued on January 5, 2021, Providing Substantial Guidance on New Loans**

- Application Portal will re-open this week; first two days will be WOMB Financial Institutions
- PPP will open to all participating lenders shortly thereafter and remain open through 3/31/21
- 2nd loan authorized for businesses less than 300 employees, a revenue reduction of at least 25%, and the business spent all of the original PPP on eligible expenses
 - 25% reduction is calculated by comparing gross receipts in any 2020 quarter with an applicable quarter in 2019, or, complete 2020 taxes compared to 2019 taxes
- A maximum second loan amount of \$2 million for most businesses at 2.5 times average monthly payroll costs (food service/accommodation businesses at 3.5 times monthly payroll)
- Creation of a simplified loan forgiveness application form consisting of a one-page certification listing the loan amount, number of employees retained, and estimated payroll
- Forgiveness for second PPP if at least 60% is spent on payroll costs during the covered period

*New COVID-19 Spending Bill Details***PPP Details Provide Limitations on New Loans (Continued)**

- Expansion of covered expenses: software, cloud computing resources, HR, accounting, PPE, property damage costs due to public disturbances not covered by insurance, & supplier costs
- Eligibility for include 501(c)(6) nonprofits
- Repeals previous CARES Act provision that required deducting of EIDL Loans (go get that!)
- Overrides IRS ruling that barred deduction of expenses paid for with PPP loans
- Prohibits publicly-traded companies from accessing PPP funds
- Prohibits entities affiliated with the Chinese government from obtaining PPP funds
- Creates a farmer and rancher calculation for PPP loans
- Rules established for faith-based and churches to maintain eligibility
- PPP loan borrowers may elect either an 8-week covered period or a 24-week covered period

*New COVID-19 Spending Bill Details***PPP Details Provide Limitations on New Loans (Continued)**

- Group insurance payments count as payroll costs, including group life, disability, vision
- Ineligibility for businesses that receive a grant under a separate venue \$15 billion program
- Reapplication option for the PPP maximum for any business that returned all or part of PPP
- New PPP forms are expected to be released this week
- The Economic Aid Act did not provide a general definition of gross receipts for determining a borrower's revenue reduction, so the new guidance makes the definition consistent with the definition of receipts in 13 C.F.R. Section 121.104 of SBA's size regulations.
 - Specifically, gross receipts include all revenue in whatever form received or accrued (in accordance with the entity's accounting method) from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. Forgiven first-draw PPP loans are not included

Questions & Answers



**HRCI (Strategic/Business): 546766
SHRM: 21-49K4Q**



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