

CLIENT ALERT: Governor Baker Issues New Order: Travelers Arriving in Massachusetts are “Instructed,” and Not Simply “Urged,” to Self-Quarantine for 14 Days, Except for Travelers From Some States

Earlier this year, Massachusetts Governor Charlie Baker ordered that “[b]eginning March 27, all travelers arriving to Massachusetts are ***instructed*** to self-quarantine for 14 days.” As COVID-19 case numbers declined and the Commonwealth began to reopen, Governor Baker revised this order in May with guidance ***urging*** out-of-state travelers to self-quarantine for 14 days upon arrival in Massachusetts. On Tuesday, June 30, 2020, however, the Governor reversed course, presumably in response to the rising number of cases in certain parts of the U.S. Pursuant to his most recent order, effective Friday, July 3, 2020, all travelers arriving to Massachusetts from other states are again ***instructed*** to self-quarantine for 14 days, except travelers arriving from Rhode Island, Connecticut, Vermont, New Hampshire, Maine, New York, or New Jersey. The order also excludes workers designated by the federal government as “essential critical infrastructure workers” (a detailed list of which can be found [here](#)).

While not only difficult to keep up with yet another course-correction, this change impacts employee leave eligibility. Specifically, for employers subject to the Families First Coronavirus Response Act (“FFCRA”, an overview of which may be found [here](#)), employees may again be eligible for Emergency Paid Sick Leave (“EPSL”) if they are subject to this order instructing them to self-quarantine following out of state travel to one of the states not exempted from the order.

As a reminder, employees of covered employers (private entities or individuals that employ fewer than 500 employees and employees of public agencies/entities), are eligible for EPSL under six circumstances, one of

which is that the employee is “subject to a Federal, State or local quarantine or isolation order related to COVID-19.” Governor Baker’s “instruction” to self-quarantine following out of state travel counts as such an order, while “urging” or “advising” quarantining does not. Thus, employees returning from travel from any state other than those exempted above are entitled to up to 80 hours of EPSL at the greater of the employee’s regular rate of pay or the highest applicable minimum wage (local, state or federal), capped at \$511 per day per employee and \$5,110 in the aggregate per employee. This assumes, of course, that the employee has not already exhausted their EPSL.

Additionally, where summer is now upon us and employee vacations are on the rise, employers may wish to consider amending their vacation request and approval processes. The practical impact of Governor Baker’s most recent order is that employees who travel may be unable to return to work for an additional 14 days following their return from vacation (depending on their vacation destination). Employers may communicate to their employees that vacation requests are now pending approval (even if previously approved), so that the employer may gather information on the travel destination, and assess whether it is feasible for the employee to be out for this extended time (i.e. a one-week vacation could turn into three weeks out of work), whether work from home is available upon the employee’s return, or if other alternative arrangements exist.

Please note that the above is based on information currently available as of the date of this publication. Employers with questions about quarantine or isolation orders, FFCRA, FMLA, other employee illness, or disability and/or medical leave laws should consult with their MBJ attorney.

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