

I. Legal Framework

The Federal Labor Law ("FLL"), expressly regulate sanitary contingencies declared by competent health authority. Since FLL does not define who are those competent authorities, we must refer to the General Health Law ("GHL"), same which establishes the following:

- I. President;
- II. General Health Council;
- III. Ministry of Health, and
- IV. State Governments.

Since, as of this day, neither the Ministry of Health nor the President have declared any health contingency related to COVID-19 or general suspension of work, **these provisions of the FLL are not yet applicable.**

II. Special Obligations of the Employer due to a Health Contingency

In the event the competent authorities declare a health contingency, pregnant employees or those in breastfeeding period, as well as employees under the age of 18, must suspend their work without affecting their salary, benefits and rights.

In case the authority effectively declares the general suspension of work due to COVID-19, employers are obliged to pay their employees a compensation equivalent to one minimum wage in force, for each day that the suspension lasts, same which cannot exceed one month.

Although the FLL does not foresee the possibility that the temporary suspension of work due to a health contingency will last more than a month, in our opinion, the employers would not be obliged to cover any compensation beyond this period.

Please be advised that the current daily minimum wage in the Free Zone of the Northern Border is equivalent to \$185.16 MXP and \$123.22 MXP for the rest of the country.

Any temporary suspension of work without pay, established by the employer as a preventive measure prior to the declaration of health contingency by the competent authority, must be agreed upon by the employee and the employer (mutual consent) and be duly documented in order to avoid any claim of salary reduction or lack of probity attributable to the employer.

Please notice that in accordance with the FLL, employers cannot unilaterally modify working conditions or temporarily suspend employees, if said measures entail a detriment to the employees' salary. On the contrary, employers can temporarily suspend work without affecting the rights of employees, that is, paid suspension.

However, the employee's duty to render services and the employer's duty to pay salary will be temporarily suspended without responsibility for the parties in the event the employee has acquired a contagious disease such as COVID-19. This implies having a confirmed official diagnosis.

III. Employees' Obligations

By law, all employees are obliged to undergo to medical examinations provided for in the internal work regulations and other applicable policies, in order to verify that they do not suffer from any contagious disease. If they result infected with COVID-19, they must inform the employer as soon as they become aware of the situation.

Likewise, it is the obligation of employees to comply with the applicable provisions regarding safety, health and work environment, as well as the preventive measures indicated by employers for their safety and personal protection.

By virtue of the foregoing, employers could validly implement medical examinations that include measuring body temperature (fever) and reviewing vital signs upon entering the workplace and/or during the work day, establishing the use of face masks, etc.

In the event of a general suspension of work due to a health contingency declared by the authority, the employees will be obliged to continue with their activities as soon as said contingency ends.

IV. Occupational Hazards and Workplace Diseases

Occupational Hazards are the accidents and illnesses to which employees are exposed by their work or position. Workplace Disease refers to any pathological state derived from the continuous action of a cause that has its origin at work or in the environment in which the employee is forced to provide his/her services.

For COVID-19 to be classified as a workplace disease, it would have to be demonstrated that the infection occurred in the workplace or as a result of exercising work activities.

In any case, both the FLL and the Social Security Law ("SSL") establish that workplace diseases are the ones listed in the FLL and in the updates made by the Ministry of Labor and Social Welfare. COVID-19 is not within the current disease list.

V. Other Possible Measures

Employers can explore the implementation of other labor measures, such as remote work / home office, work shift reduction, flexible work shifts, extraordinary paid leaves and anticipated use of vacation days.

The viability of any of the above options depends on the line of business or industry to which the employer belongs, the functions inherent to the positions of the employees, and even the existence of provisions stipulated in the collective bargaining agreement in force.

COVID-19: Labor Implications in Mexico

Mexico City, March 18, 2020

Please be advised that FLL regulates home office and defines it as work that is usually carried out for an employer, at the employee's home or in a place freely chosen by him, without the supervision or immediate direction of the employer. Home office includes work done remotely using information and communication technologies.

The fact that employees work from home will not affect their compensation.

Home office is generally regulated by the employer's internal policies. Therefore, we recommend reviewing these policies and agreeing with employees the terms and conditions applicable to this modality, especially those related to the storage and conservation of equipment and work tools owned by the employer, confidentiality of information and delivery dates.

VI. General Recommendations

We recommend that employers take the following general measures regarding COVID-19:

- Reinforce safety and hygiene measures in the workplace, from cleaning and disinfecting common areas and furniture, to the sufficiency of products such as soaps, antibacterial gel, toilet paper, etc.
- Provide training to the employees about COVID-19.
- Consider granting extraordinary paid leave to employees who have an infected family member and must remain isolated, as well as for female employees who are affected by the closure of schools and daycare centers.
- Establish a travel restriction policy.
- Do not discriminate against infected or symptomatic personnel, independently that employers may ask them not to attend work, given the highly contagious nature of the disease. Communicate to employees that any discriminatory conduct will be sanctioned.
- Respect employees' privacy rights and do not reveal the identity of those who are infected or are quarantined, without their consent or unless there is a legal obligation or requirement of authority.
- Track the granting of financial support or incentives by the Government, including cancellation or reduction of taxes, extension for the payment of social security contributions.

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