



BPG Monthly Newsletter

by Benefit Partners Group, LLC

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Supreme Court Vacancy May Affect ACA Litigation

Since 2017, the Affordable Care Act (ACA), has been the subject of numerous legal challenges. Several bills were introduced to repeal the law, although those efforts failed. The ACA has also been challenged in federal court. A lawsuit seeking to invalidate the ACA in its entirety is currently pending before the Supreme Court, with oral arguments scheduled for November.



On Sept. 18, 2020, U.S. Supreme Court Justice Ruth Bader Ginsburg passed away at the age of 87. Whether the court vacancy created by Justice Ginsburg's death should be filled prior to the November election is the subject of much controversy. On Sept. 26, 2020, President Donald Trump nominated federal circuit court judge Amy Coney Barrett to fill the vacancy, and the Senate plans to hold a vote on this nomination. However, a number of Democrats in Congress believe that the nomination process should not take place until after the November election.

If a new Supreme Court justice is confirmed before the election, it could greatly

impact the outcome of that litigation. It is widely expected that President Trump's nominee will have a more conservative viewpoint and would be more likely to invalidate the ACA. In contrast, a Supreme Court justice nominated by Democratic Party candidate Joe Biden would be more likely to uphold the ACA.

Until a nominee is ultimately confirmed, the practical impact of this decision remains to be seen. As a result, employers may want to closely monitor developments related to the Supreme Court nomination.

Preparing for Flu Season During the COVID-19 Pandemic

Each year, the seasonal flu has a marked impact on businesses and employers, causing increased absenteeism, decreased productivity and higher health care costs. Unfortunately, the 2020-21 flu season isn't the only health crisis employers and employees have to address this year. The COVID-19 pandemic is still affecting the workforce, and the combination of another potentially bad flu season and the pandemic has public health experts worried.



There are a variety of steps employers can take to protect employees and prepare for flu season—which may include steps you've taken in response to COVID-19—regardless of whether employees are in the office or working remotely.

Here are some strategies to consider:

- **Host an on-site, socially distanced vaccination clinic**—One of the most important steps for preventing the flu is to get an annual flu vaccination. Hosting an on-site flu vaccination clinic can help educate employees about the importance of vaccination and make it easier for them to get vaccinated.
- **Encourage employees to get the flu vaccine**—If you choose not to or are unable to provide an on-site flu vaccination clinic, you can still emphasize the importance of vaccination to your employees and educate them about local opportunities to get vaccinated.
- **Disinfect and clean the office**—Because the flu virus and the virus that causes COVID-19 can remain on surfaces long after they've been touched, it's important that your business frequently cleans and disinfects the facility.
- **Implement and enforce social distancing protocols**—Social distancing is the practice of deliberately increasing the physical space between people to avoid spreading illness.
- **Promote respiratory etiquette and hand hygiene**—Businesses should encourage good hygiene to prevent the spread of respiratory illnesses like the flu and COVID-19. This can involve:
 - Reminding employees to wash their hands often with soap and warm water
 - Placing hand sanitizers in multiple locations to encourage hand hygiene
 - Reminding employees to not touch their eyes, nose or mouth
 - Asking employees to wear a mask or face covering when social distancing is not possible
- **Encourage employees to stay home when sick**—Ask employees to err on the side of caution if they're not feeling well, and stay home when they're sick or are exhibiting common symptoms of COVID-19 or the flu.

These strategies may not be right for every organization. Depending on the nature of your business, you may need to implement additional prevention strategies. Take action today to prepare your business for flu season during the COVID-19 pandemic.

Remote Verification of Form I-9 Documents Extended to Nov. 19

Because of the ongoing COVID-19 pandemic, the U.S. Department of Homeland Security (DHS) is [allowing](#) employers that are operating remotely to conduct a remote verification of approved [Form I-9](#) documents. On Sept. 15, 2020, DHS extended yet again this exemption for an additional 60 days. The new expiration date for the exemption is now [Nov. 19, 2020](#).



Physical Inspection

Employers must complete and sign Section 2 of Form I-9 within three business days of the employee's first day of employment. Employers are required to physically examine the documents the employee presents from the list of acceptable documents to prove his or her employment eligibility.

Remote Verification

The exemption also applies only to employers that are operating remotely due to COVID-19 and new hires affected by quarantine or lockdown protocols. The exemption does not apply to employers that have employees physically present at a work location.

Under the exemption, employers must complete a remote inspection of approved documents within three business days and enter "COVID-19" as the reason for the physical inspection delay. Employers that use this exemption must also keep written documentation of their remote onboarding and telework policy for each employee.

Within three days of when normal operations resume, all employees who were onboarded using remote verification must present their approved documents for a physical inspection. When this happens, employers will need to add

“documents physically examined” with the date of inspection to affected I-9 forms.

Five Steps to Successful Employee Communication

Effective managers must be strong communicators to inspire and lead their teams. The video below offers five strategies and suggestions to keep your managers' communication efforts on point.



For additional HR guidance, visit our [Human Resources](#) section.

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