

2024

# BUSINESS IN 2023

WEEKLY WEBINAR SERIES

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# Your Host



## **Gabriel S. Oberfield**

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# TODAY'S AGENDA

**Gabe Oberfield – (12:00PM-12:05PM)**

- Intros / Agenda

**Jared Joyce – (12:05PM-12:15PM)**

- The O-CHIP program and the New York Housing Compact

**Seth Gilbertson (12:15PM-12:20PM)**

- New York State Amendments to Salary Transparency

**Devin Karas – (12:20PM-12:30PM)**

- Implications of the End of the Public Health Emergency in Employee Benefits

**Kseniya Premo – (12:30PM-12:40PM)**

- Immigration Issues to Keep in Mind When Contemplating Layoffs or Reductions in Force

**Peter Robb – (12:40PM-12:50PM)**

- How Employers Should Be Approaching Severance Packages Right Now

**G. Oberfield – (12:50PM)**

- Wrap Up

# A Reflection...

Source: New York Times

- Three years ago...our world began to change
- We remember those we lost and the many who sacrificed
- We recall the feats of bravery

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- This program got its start during that spring of 2020
- We continue with our service to you in 2023, and beyond

The New York Times

## Coronavirus in N.Y.: Manhattan Woman Is First Confirmed Case in State

A woman in her 30s who had traveled in Iran contracted the virus and is now isolated at home.

Give this article



In New York City, some 1,200 hospital beds could be made available to coronavirus patients without interfering with anyone else's medical care, Mayor Bill de Blasio has said. Bryan R. Smith for The New York Times



By [Joseph Goldstein](#) and [Jesse McKinley](#)

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Coronavirus in N.Y.: Manhattan woman is first confirmed case in state

# State and Local Approaches to Solving Housing Shortages



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# Brief Overview

- How We Got Here: The Underlying Causes of the Housing Shortage
- The New York Housing Compact
- Onondaga County Housing Initiative Program (O-CHIP)

# How We Got Here: The Underlying Causes of the Housing Shortage

- Fewer new homes are being built.
- A shortage in housing units for rent or sale.
- COVID-19

# The New York Housing Compact

- The NY Housing Compact is a part of Governor Hochul's FY 2024 Executive Budget.
- Aims to resolve three major factors that contribute to NYS's housing shortage:
  - More jobs than housing.
  - Skyrocketing rent and home prices.
  - Barriers to housing growth.



# The New York Housing Compact

- Aims to create 800,000 new housing units statewide over the next 10 years.
  - Statewide Housing Targets
    - Upstate municipalities must grow the number of housing units by 1% every 3 years.
    - NYC and downstate municipalities must grow the number of housing units by 3% every three years
  - Facilitated Housing Approval
    - Municipalities that fail to meet their goals will be subjected to a state-run approval process for housing developments of 20 or more units.
    - Developers whose plans are rejected may seek fast-tracked state approval even if their plans are in violation of local zoning ordinances.

# The New York Housing Compact

- Other aspects of the NY Housing Compact:
  - Infrastructure and Planning Funding.
  - A focus on transit-oriented development.
  - Removing obstacles to housing approval (relief from certain environmental reviews).
  - Incentives to build and rehabilitate housing.
  - NYC: Specific changes to housing density laws and laws restricting which commercial buildings are eligible for conversion to residential.

# Onondaga County Housing Initiative Program (O-CHIP)

- \$10 million housing fund that is available to both private sector and nonprofit developers.
- Available for any type of housing project including affordable, market-rate, apartments, condos, or single-family homes.
- Offers a \$5,000 grant, per unit, for projects consisting of between 5 and 50 units.

# New York State Amendments to Salary Transparency Law



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# Reminders

- Applies to entities with four or more employees
  - Only temp firms exempt
- Must disclose “range of compensation”
  - “the minimum and maximum annual salary or hourly range of compensation . . . that the employer ***in good faith believes*** to be accurate at the time of the posting of an advertisement” for the job, promotion or transfer opportunity
- DOL can issue civil penalties for noncompliance

# Scope

- Amendments limit the geographic scope of the law
- Original: “*can or will* be performed” in New York State
- Amended: “a job, promotion, or transfer opportunity that *will* physically be performed, at least in part” in New York State
  - Includes jobs that will physically be performed outside of New York but report to a supervisor or office in New York

# Definition of Advertise

- “Advertise” is now defined as “to make available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity,”
- Closely mirrors other pay transparency laws around the State.



# Record Keeping

- The employer records keeping requirement has been removed from the law
- Employers should still maintain records
- Stay tuned for retention guidance

# Preparation

- Goes into effect September 17, 2023
- Think about reporting structure for clarity on application
- Seriously consider performing equity and compression analysis before you begin posting pay range (or now)
  - Know what an investigator or plaintiff will discover
  - BOND can help you structure this to meet the needs of your organization and maintain privilege

# Biden Announces End of Public Health Emergency: Employee Benefits Implications



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# Biden Announces End of Public Health Emergency: Employee Benefits Implications

## Background

- March 13, 2020, COVID National Emergency declared,
  - o DOL and IRS, issue Joint Notice (85 FR 26351) tolling (pausing) the clock on which participants in plans governed by ERISA and the Code would ordinarily be required to elect, pay for, or file an appeal for benefits.
- Joint Notice applies to
  - Group health plans (e.g., HIPAA special enrollment; COBRA continuation coverage)
  - Disability and other welfare plans and
  - Pension plan claims and appeals

# Biden Announces End of Public Health Emergency: Employee Benefits Implications

## Tolling Limit

- Maximum tolling period limited to the end of the earlier of: (i) one year or (ii) end of the Outbreak Period.
  - o Example, COBRA ordinarily gives qualified beneficiaries 60 days to elect COBRA coverage after loss of coverage or date Election Notice provided to qualified beneficiary, whichever is later
    - Chuck provided COBRA election notice August 1, 2020. Joint Notice tolls election notice to August 1, 2021. Chuck has 60 days to elect COBRA from August 1, 2021 (September 30, 2021).

# Biden Announces End of Public Health Emergency: Employee Benefits Implications

## Outbreak Period

- Outbreak Period ends 60 days after declared end of National Emergency

## End of National Emergency Announced

- January 30, President Biden announced his intent to end the National Emergency on May 11, 2023.
- Outbreak Period ends 60 days after end of National Emergency (**July 10, 2023**)
- So, using a pension appeal example, if Sue is denied a claim for pension benefits on February 1, 2023, tolling period will not extend to February 1, 2024, but only as far as July 10, 2023.
- Sue would have to file appeal no later than 60 days after July 10, 2023

# Biden Announces End of Public Health Emergency: Employee Benefits Implications

## What to do

- Plan sponsors should coordinate with their plan administrators and should review and revise, as necessary, participant communications regarding the new tolling deadline.
- For example, letters denying pension benefit claims should indicate that appeals may be made no later than the end of the Outbreak Period plus 60 days (September 8, 2023).
- COBRA and other notices or communications should be similarly revised to account for the end of the Outbreak Period.



# Immigration Issues to Keep in Mind When Contemplating Layoffs or Reductions in Force



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# How Employees Should Be Approaching Severance Packages Right Now



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# Your Questions



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## Public Health Updates

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### **New York Employment Law: The Essential Guide**

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

# Thank You

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It is not to be considered as legal advice.  
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