

**Department of Labor and Employment's Orders and Advisories related to the
Declaration of Public Health Emergency due to Corona Virus Disease 2019
(COVID-19)**

Background

In view of the on-going worldwide outbreak caused by the COVID-19 pandemic, President Rodrigo R. Duterte issued Proclamation Nos. 922 and 929 declaring a State of Public Health Emergency and State of Calamity throughout the Philippines and placing the entire Luzon under Enhanced Community Quarantine (ECQ).

Due to the ECQ, private establishments within the quarantine area temporarily ceased operations and only those providing essential services or selling basic goods were allowed to operate.

Given the far-reaching effects of COVID-19 on the country's economy in view of the ECQ, the Department of Labor and Employment (DoLE) issued the following advisories and orders implementing programs, projects, guidelines, and remedial measures to assist and guide employers and employees in the private sector:

1. Flexible Work Arrangements;¹
2. COVID-19 Adjustment Measures Program (CAMP);²
3. *Tulong Panghanapbuhay sa ating* Displaced/Disadvantaged Workers Program (TUPAD);³

¹ Labor Advisory No. 09-20 dated 04 March 2020.

² Department Order No. 209 dated 17 March 2020.

³ Department Order No. 210 dated 18 March 2020.

4. *Barangay Ko, Bahay ko* Disinfecting/Sanitation Project;⁴
5. Hotel Accommodation for Distressed Land-based Sea-based Filipino Workers During the Period of ECQ or the OWWA Project;⁵
6. Non-inclusion of the One-Month ECQ on the Six-Month Probationary Period;⁶
7. Deferment of Payment of Holiday Pay for the April 2020 Holidays;⁷ and
8. Financial Assistance for Displaced Land-based and Sea-based Filipino Workers.⁸

I. FLEXIBLE WORK ARRANGEMENT

What is the purpose for the adoption of “Flexible Work Arrangements”?

The adoption of flexible work arrangements is considered as better alternatives than outright termination of the services of the employees or the total closure of the establishments.

What is a “Flexible Work Arrangement”?

This refers to alternative arrangements or schedules other than the traditional or standard work hours, workdays, and workweek.

What are the “Flexible Work Arrangements” which can be considered by employers?

1. Reduction of Workhours and/or Workdays – an arrangement where the normal workhours or workdays per week are reduced;

⁴ *Ibid.*

⁵ Department Order No. 211 dated 21 March 2020.

⁶ Labor Advisory No. 14 dated 30 March 2020.

⁷ Labor Advisory No. 13-A dated 01 April 2020.

⁸ Department Order No. 212 dated 09 April 2020.

2. Rotation of Workers – an arrangement where the employees are rotated or alternately provided work within the week;
3. Forced Leave – an arrangement where the employees are required to go on leave for several days or weeks utilizing their leave credits, if there are any;
4. Telecommuting – an arrangement where employees can work from an alternative workplace (at home) with use of telecommunication and/or computer technology; and
5. Work from home – an arrangement where employees can perform his work at home except those work that can only be performed with the use of computer technology - telecommuting.⁹

This enumeration is not exclusive and other work arrangements may be implemented by employers. As a matter of fact, the DoLE encourages employers to explore other alternative work arrangements in order to cushion or mitigate the effect of the loss of income of the employees.

It must be emphasized that the labor advisory on telecommuting and work from home arrangements were recommended by the DoLE after placing Luzon under ECQ. Hence, Reduction of Workhours and/or Workdays, Rotation of Workers, and Forced Leave may still be implemented by those industries that are allowed to operate during the ECQ, while those industries required by the government to be closed during the ECQ may adopt Telecommuting and Work-From-Home arrangements.

What are the requirements that need to be done by the employer adopting a Flexible Work Arrangement?

The employer shall notify the DoLE through the Regional/Provincial/Field Office which has jurisdiction over the workplace of the adoption of any of the above flexible work arrangements. The notice shall be in the Report Form attached to the Labor Advisory No. 09.

⁹ Labor Advisory No. 11 dated 14 March 2020.

What are the other remedial measures implemented by the DoLE?

- *On Workers' Leaves of Absence during the Community Quarantine*

The leaves of absence during the community quarantine period shall be charged against the workers' existing leave credits, if any. Remaining unpaid leaves during the said period may be covered and be subject to the conditions provided in the DoLE's proposed Adjustment Measures Program.¹⁰

- *On Workers' Delivering Goods in Metro Manila*

Those delivering goods such as food, raw material, etc., should have access to Metro Manila, provided that they present proof of delivery receipt stating the address of the establishment to receive the goods.¹¹

- *On Health Care Facilities*

All health care facilities shall be fully operational and their employees shall be allowed to move from Metro Manila to other regions and vice versa.¹²

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

II. COVID-19 ADJUSTMENT MEASURES PROGRAM

Please note that through a Statement dated 16 April 2020, the DoLE suspended the acceptance of applications for financial assistance under the CAMP due to the overwhelming volume of applications which have nearly depleted the available funding for the program amounting to P1.6 billion.

What is DoLE's COVID-19 Adjustment Measures Program (CAMP)?

CAMP is a safety net program that offers financial support to affected workers in private establishments that have adopted flexible working arrangements or temporary closure during the COVID-19 pandemic.

This program assistance shall provide affected workers with financial relief necessary to mitigate the immediate adverse economic impacts of the COVID-19 pandemic. A one-time financial assistance equivalent to Five Thousand Pesos (PHP 5,000.00) shall be provided to affected workers in a lump sum, non-conditional, regardless of employment status.

What are the private establishments covered by the CAMP?

The private establishments that have implemented Flexible Work Arrangements as defined by DoLE Labor Advisory No. 09 (i.e. reduction of workhours/workdays, rotation of workers, force leave) or temporarily closed as mitigating measures due to COVID-19 pandemic.

Who are the affected workers covered by the CAMP?

Workers in private establishments, regardless of status (i.e. permanent, probationary, or contractual),¹³ whose employment face or suffer interruption due to the COVID-19 pandemic, such as:

- I. Retained workers who do not receive regular wage – workers whose working hours and regular wage is reduced due to the implementation of Flexible Work Arrangement as mitigating measures enforced by the employer; and
- II. Suspended workers – workers whose employment is temporarily suspended by reason of the suspension of operations of the employer's business establishment

What is the coverage of the CAMP?

CAMP coverage is nationwide.¹⁴

What are the guidelines in the availment of DoLE's CAMP?

The following are the general procedural guidelines which shall be observed in the availment of the program assistance by the affected workers through MSMEs:

- a. *Eligibility Requirements.* The applicant must be a private establishment that has implemented Flexible Working Arrangements or temporary closure due to the COVID-19 pandemic.
- b. *Documentary Requirements.* The affected establishment must submit:
 - i. Establishment Report Form;¹⁵ and
 - ii. Company Payroll for the month of February or earlier.

¹³ Labor Advisory 12-20 dated 18 March 2020.

¹⁴ *Ibid.*

¹⁵ The required Establishment Report Form is attached as Annex "A" to the Labor Advisory No. 12-20.

c. *Application Procedures.*

- i. Applications with complete documentary requirements shall be submitted online¹⁶ to the appropriate DoLE Regional Office or any of its Provincial/Field Offices.
- ii. Applications shall be evaluated by the concerned DoLE Regional Office within three (3) working days from receipt thereof.
- iii. The following documents depending on the status of evaluation shall be issued to the applicant by the concerned DoLE Regional Office within three (3) working days through electronic mail from the date thereof:

1. For approved application, a Notice of Approval; or
2. For denied application, a Notice of Denial.

d. *Denial of Application.* An application may be denied by the DoLE Regional Director upon determination of any of the following grounds:

- i. Ineligibility of applicant;
- ii. Misrepresentation of facts in the application; or
- iii. Submission of falsified or tampered document.

What are the guidelines or procedures after the Notice of Approval is issued by the DoLE Regional Office?

Upon approval of the application by the Regional Director and upon receipt of the Notice of Approval by the beneficiary, the following procedures shall be observed based on desired program components:

- a. Disbursement. The concerned DoLE Regional Office shall issue the financial support either of the following:

¹⁶ The list of directory for online submission of documentary requirements to the appropriate DoLE Regional Office is attached as Annex "B" to the Labor Advisory No. 12-20.

- i. directly to the beneficiary's payroll account through a bank transfer within two (2) weeks upon receipt; or
 - ii. directly to the employees' payroll account through bank transfer at the soonest possible time upon receipt of complete documentary requirements. For cash payroll, financial support shall be received through money remittance.¹⁷
- b. Completion. Beneficiaries who receive financial support are considered to have completed the CAMP. A Notice of Completion shall be issued to the affected establishment within three (3) working days through electronic mail.



¹⁷ *Supra.*, Note 13.

III. TULONG PANGHANAPBUHAY SA ATING DISPLACED/DISADVANTAGED WORKERS PROGRAM (TUPAD) AND BARANGAY KO, BAHAY KO DISINFECTING/SANITATION PROJECT

What is TUPAD?

TUPAD is one of the flagship programs of the DoLE which aims to contribute to poverty reduction and inclusive growth. It is a community based (municipality/*barangay*) package assistance that provides temporary wage employment for the displaced workers, underemployed, and self-employed workers.

Who are the qualified beneficiaries of TUPAD?

The qualified beneficiaries are the underemployed, self-employed workers, and displaced marginalized workers who have lost their livelihood or whose earnings were affected due to the ECQ against COVID-19.

What will be the nature of the work of qualified beneficiaries under TUPAD?

The nature of work shall be the disinfection/sanitation of their houses/dwellings and the immediate vicinity of their houses for a limited period of ten (10) days.

What is the package of assistance to TUPAD beneficiaries?

1. Payment of wages equivalent to 100% of the prevailing highest minimum wage in the region;
2. Enrolment to group micro-insurance; and
3. Conduct of Basic Orientation on Safety and Health through the dissemination of brochures.

IV. HOTEL ACCOMMODATION FOR DISTRESSED LAND-BASED SEA-BASED FILIPINO WORKERS DURING THE PERIOD OF ECQ OR THE OWWA PROJECT

What is the OWWA Project?

The OWWA Project is one of the projects of the DoLE which strengthen the social protection of Overseas Filipino Workers (OFW) by providing qualified distressed OFWS with accommodation and transportation assistance during the ECQ period.

Who are the OFWs covered under the OWWA Project?

Only distressed sea-based and land-based OFWs who are bound for their residences outside of the National Capital Region will be qualified to avail of accommodation assistance from OWWA.

What are the requirements that need to be presented by OFWs to avail of this program?

1. Copy of Passport or Travel Document
2. Certification as OFW Repatriates from the OWWA Repatriation and Assistance Division.

What assistance can be given to qualified OFWs under the OWWA Project?

After the issuance of a Certificate of Eligibility to Project Care to the qualified OFW under this program, he shall be provided transportation and temporary shelter assistance.

V. DEFERMENT OF PAYMENT OF HOLIDAY PAY FOR THE APRIL 2020 HOLIDAYS

On account of the existence of a national emergency as aforementioned, employers are allowed to defer payment of holiday pay on 09, 10, and 11 April 2020, as may be applicable, until such time that the present emergency situation has been abated and the normal operations of the establishment are in place.

Establishments that have totally closed or ceased operation during the ECQ period are exempted from the payment of the holiday pay under Labor Advisory No. 13.



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LAW OFFICES

VI. FINANCIAL ASSISTANCE FOR DISPLACED LAND-BASED AND SEA-BASED FILIPINO WORKERS

What is the Financial Assistance for Displaced Land-Based and Sea-Based Filipino Workers?

The DoLE shall provide displaced OFWs on account of COVID19 with a one-time financial assistance of USD 200.00 or PHP 10,000.00 or its equivalent to the local currency of the host country.

Who are covered under this financial assistance program?

1. Regular/Documented OFWs as defined in the 2016 Revised Philippine Overseas Employment Administration (POEA) Rules and Regulations refers to:
 - a. Those who possess a valid passport and appropriate visa or permit to stay and work in the receiving country; and
 - b. Those whose contract of employment has been processed by the POEA or the Philippine Overseas Labor Office (POLO);
2. Qualified Undocumented OFW:
 - a. Those who were originally regular or documented workers but for some reason or cause have thereafter lost their regular or documented status;
 - b. Those who are not registered with the POEA or whose contracts were not processed by POEA or the POLO, but have undertaken actions to regularize their contracts or status; or
 - c. Those who are not registered with the POEA or whose contracts were not processed by POEA or the POLO, but are active OWWA members at the time of availment.

3. *Balik-Manggagawa* are those who are unable to return to the host country in view of host country lockdown due to COVID-19.

What are the eligibility requirements under this financial assistance program?

1. Those who have experienced job displacement due to the receiving country's imposition of lockdown or community quarantine or having been infected by the disease;
2. Those who must be still at overseas jobsites, or in the Philippines as *Balik-Manggagawa*, or already repatriated to the Philippines; and
3. Those must not receive any financial support or assistance from receiving countries or employers.

How can the eligible OFW avail to this financial assistance program?

A. For On-Site OFWs,

1. The following documents shall be submitted to the POLO:
 - a. Accomplished Application Form for Special Cash Assistance (can be downloaded at the POLO's website/social media account);
 - b. Copy of Passport or Travel Document;
 - c. Proof of overseas employment i.e. valid verified overseas employment, Overseas Employment Certificate, residence I.D. visa / re-entry visa, among others or permit to stay in the receiving country;
 - d. Proof of loss of employment on account of COVID-19; and
 - e. For OFWs who became undocumented through no fault of their own, proof that the OFW is currently involved in an on-going case (e.g. case reference number, case endorsement stamped by POLO, among others).
2. After submission of complete documents, POLO shall evaluate application within 5 working days and notify OFWs on the status of his/her application within 5 working days.

3. If approved, the concerned POLO shall release the USD 200.00 through bank transfer or money remittance.

B. For OFWs who have been Repatriated or *Balik-Manggagawa*

1. The following documents shall be submitted to the OWWA Regional Welfare Offices (RWOs):
 - a. Accomplished Application Form for Special Cash Assistance (can be downloaded at www.dole-akap.owwa.gov.ph);
 - b. Copy of Passport or Travel Document;
 - c. Proof of overseas employment i.e. valid verified overseas employment, Overseas Employment Certificate, residence I.D. visa / re-entry visa, among others or permit to stay in the receiving country; and
 - d. Proof of loss of employment on account of COVID-19.
2. After submission of complete documents, RWOs shall evaluate application within 5 working days and notify OFWs on the status of his/her application within 5 working days.
3. If approved, the concerned DoLE Regional Office shall release the PHP 10,000.00 through money remittance or Peso Net.

VII. FREQUENTLY ASKED QUESTIONS

During the ECQ period, are employers required to pay the salary of their employees?

Employers are still governed by the “no work, no pay” principle in the payment of its employees’ salary during the ECQ period. Hence, employers who temporarily suspended the operation of their businesses due to ECQ are not obliged to pay the salary of their employees, save those employers adopting any of the Flexible Work Arrangement,¹⁸ in which case, employees should be paid based on their hours worked.

However, to aid employees affected by the implementation of ECQ, the DoLE issued an Advisory requiring that leaves of absence during the community quarantine period shall be charged against the workers’ existing leave credits, if any. Remaining unpaid leaves during the said period may be covered and be subject to the conditions provided in the DoLE’s proposed Adjustment Measures Program.¹⁹

Further, large establishments are “highly encouraged” by the DoLE to cover the full wages of employees within one (1) month community quarantine period.²⁰

Are employers required to pay in advance the 13th month pay of its employees during the ECQ?

There is no labor advisory or order from the DoLE requiring employers to advance its employees’ 13th month pay in the light of the COVID-19 pandemic. Hence, it is part of business judgment or management prerogative whether the employer will advance, whether in whole or pro-rated, the 13th month pay of its employees. This, however, was “encouraged” by President Rodrigo Duterte in one of his recent public statements.

¹⁸ *Supra.*, Note 1.

¹⁹ *Supra.*, Note 9.

²⁰ Section 3, Article II, Department Order No. 209.

Are employers required to give their employees financial assistance during the ECQ period?

There is also no labor advisory or order from the DoLE requiring employers to give financial assistance to its employees. Nonetheless, employers are not prevented from doing so and hence, may exercise business judgment or management prerogative in granting the same.

Can an employer dismiss an employee on the ground of non-operation of business due to the ECQ?

No. Employers cannot dismiss or terminate an employee solely on the ground that he cannot operate his business because of the ECQ.

It must be emphasized that termination of an employee on the ground of non-operation of business due to ECQ is not one of the authorized or just causes to terminate an employee. However, if other attendant circumstances arise that comply with the legal requirements of Article 283 of the Labor Code, an employer may validly terminate employment as will be discussed in the next sections.

Can an employer dismiss an employee on the ground of retrenchment to prevent losses by reason of non-operation due to ECQ?

While the DoLE encourages employers to implement Flexible Work Arrangements as a remedial measure to address the adverse effects of the ECQ, in certain cases, this remedial measure may not be enough to save the business.

Hence, employers are forced to lay off or retrench employees to prevent further business losses. Under the Labor Code, retrenchment to prevent business losses is one of the authorized causes when employers are justified to terminate employees. However, to be valid, termination must be done in good faith and the basic requirements for retrenchment are present, to wit:

- a. Proof that the retrenchment is necessary to prevent losses or impending losses;
- b. Service of written notices to the employees and to the DoLE at least one (1) month prior to the intended date of retrenchment; and
- c. Payment of separation pay equivalent to one (1) month pay, or at least one-half (1/2) month pay for every year of service, whichever is higher.

Retrenchment may be validly resorted to only if the following standards are met:

- a. The losses incurred are substantial and not *de minimis*;
- b. The losses are actual or reasonably imminent;
- c. The retrenchment is reasonably necessary and is likely to be effective in preventing expected losses; and
- d. The alleged losses, if already incurred or the expected imminent losses sought to be forestalled, are proven sufficient and convincing evidence.

Can an employer dismiss an employee on the ground of closure of business by reason of non-operation and losses due to ECQ?

Yes. Closure of business is a business judgment or management prerogative. However, to be a valid termination, termination must be done in good faith and not for the purpose of circumventing the Labor Code or defraud the employees. Furthermore, employers should also notify the DOLE regarding such termination and pay the required separation pay to all its employees.

Can an employer dismiss an employee found positive of COVID-19?

As a general rule, an employer may terminate employment on the ground of disease only upon issuance of a certification by a competent public health authority that the disease is of such nature or at such stage that it cannot be cured within a period of six (6) months even with proper medical treatment.

It must be noted, however, that the government is enjoining any act of discrimination related to COVID-19. Therefore, due to this extraordinary situation, the DoLE may issue special rules on the employment of employees found positive of COVID-19.

Are employers required to pay for their contributions/remittance for their employees Social Security System, PhilHealth, and Pag-ibig?

Yes, employers are required to pay these mandatory contributions and remittances. However, recent issuances have provided for extended periods for the payment of these amounts due to the difficulty caused by the present ECQ.

Social Security System (SSS)

The SSS issued Circular No. 2020-006 which extends the deadline of remittance of contributions by employers to 01 June 2020.

PhilHealth

The PhilHealth issued Advisory No. 2020-21 which extends the deadline of payment of premium contributions for the first quarter of 2020 for Self-Earning Individuals, Professional Practitioners, and Members under Group Enrolment Schemes from 31 March 2020 to 30 April 2020.

Further, PhilHealth Advisory No. 2020-023 was issued to guide direct contributory members and employers that they can remit or pay their PhilHealth contributions at the following:

1. All PhilHealth Local Health Insurance Offices;
2. All Accredited Collecting Agents and CIS Bayad Centers including Third-Party Agents; and
3. For greater convenience, employers can also remit online through Security Bank, BPI, Union Bank, Land Bank, Citibank, and Banc Net member banks.

Due to the extension of ECQ, the PhilHealth issued a moratorium, through Advisory No. 2020-027, on contribution payments for the applicable months of

February to April 2020. Payment of premiums for these applicable months shall be extended until 31 May 2020 without interest for all Direct Contributors.

Pag-Ibig

For employers in areas declared under ECQ, Pag-Ibig extends the deadline on remittance of Pag-Ibig Savings (Contributions) of your employees for February and March 2020 may be paid 14 day after lifting of ECQ in your area.

