

Featured Professionals

Luis G. Reséndiz

Related Services

International

Latin America Practice

Mexico: Work Centers Ordered to Close?

Legal Update

03.25.2020

By Luis G. Reséndiz

Last night, March 24, 2020, Mexico's Ministry of Health published a decree with additional actions to combat SARS-CoV-2 (COVID-19). Some of these measures will affect employment centers. These actions include:

- Preventing adults over 65 and individuals in higher risk groups from going to work centers. These individuals will continue to receive wages and benefits. Higher risk groups include pregnant or lactating women, people with disabilities, people with chronic non-transmissible diseases (such as high blood pressure, lung, kidney failure, lupus, cancer, diabetes *mellitus*, obesity, liver or metabolic failure or heart disease), or people with any disease or pharmacological treatment that causes suppression of the immune system.
- Suspending activities in the public, social and private sectors that involve the physical concentration, transit or displacement of people. This provision is unclear and may be interpreted as ordering the closing of work centers if they involve a concentration of people. It is also unclear what constitutes a concentration. It can be argued that the decree does not mandate closure of all work centers, especially if the workplace provides enough distancing between employees in a way that the activities at the work center do not create a concentration of people.
- Companies, businesses, commercial establishments and all those in lines of business necessary to confront the health contingency will continue operating. These businesses include, but are not limited to, hospitals, clinics, pharmacies, laboratories, medical services, financial services, telecommunications, the media, hotels and restaurants, gas stations, markets, supermarkets, convenience stores, transportation services and gas distribution, as long as they do not operate in closed spaces with crowds. The decree provides no guidelines on how to determine whether businesses not listed are essential businesses that may stay open.

These provisions will be in place from March 24, 2020, until April 19, 2020.

The decree further provides that labor relations will be maintained and applied according to existing labor contracts (individual or collective) and applicable laws and the restrictions will be implemented in strict respect of the employees' labor rights.

The provisions suggest that employers must continue to pay all salaries and benefits. However, they are not clear and it may be argued that it is uncertain what are the employers' obligations and if employers have to continue paying all salaries and benefits, only have to pay one minimum salary per day (pursuant to Article 429 of Mexico's federal labor law), or not have to pay anything.

We expect further clarification on several points, including whether the decree means all "non-essential" businesses have to close down, what constitutes an essential business, and what are the employers' obligations vis-à-vis their employees.

Mexico's federal government has issued other orders related to COVID-19. In addition, most states have implemented their own measures. Please contact us if you need any assistance.