

Circular No. 136/2020

17 July 2020

COVID-19 Update—Important Fair Work Commission Decision—Paid pandemic leave—Health sector awards

Members would be aware from AFEI's previous circular ([62/2020](#)), that the Fair Work Commission (**the Commission**) recently heard applications by the ACTU and various unions for 2 weeks **paid pandemic leave** (for each occasion) for all employees covered by a number of **health sector awards**. Details of the unions' claims and the awards potentially affected were provided in the abovementioned circular.

On 8 July 2020, the Commission issued a Decision regarding the unions' claims.

Paid pandemic leave not approved, at this time

In its Decision of 8 July the Commission did **not** approve the application and did **not** introduce paid pandemic leave in any of the health sector awards.

The Decision, however, did not dismiss the unions' application altogether. The Commission has adjourned the matter and indicated its preparedness to reconsider the matter, on short notice, depending on further COVID-19 developments.

The Commission was of the view that, despite the recent events unfolding in Victoria, Australia is in a relatively controlled state. The Decision noted, "...the degree of success in controlling the COVID-19 pandemic means that the elevated potential risk to health and care workers of actual or suspected exposure to infection has not manifested itself".

The Commission also indicated that if the COVID-19 situation worsens and a negative impact on the health care system is identifiable, it may grant the application if there is sufficient evidence of an elevated risk of infection of COVID-19 amongst health and care workers. The Decision also noted that employees covered by the *Pharmacy Industry Award 2020* and *Supported Employment Services Award 2020* were less likely to be performing the work of health care workers.

The Commission also indicated that, if granted, such leave would be limited to:

- workers who are required to self-isolate because they display COVID-19 symptoms or have come into contact with a person suspected of having contracted COVID-19;
- the entitlement of up to two weeks' paid leave on each occasion of self-isolation;
- the entitlement being targeted at health and care workers who are not working at home or working remotely; and
- afforded to casual employees only if there was an impact on the resilience and performance of the health care system.

AFEI will continue to keep members informed of any further developments concerning the claims for paid pandemic leave.

If you need further information of assistance?

If you have any questions please contact the AFEI Hotline on 02 9264 2000 and one of our advisers can assist you.

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