



Families First Coronavirus Response Act *What Employers Need to Know*

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Families First Coronavirus Response Act

Signed into Law on
March 18, 2020

Scheduled to Sunset on
December 31, 2020

2 Apr. 2020

18 Mar. 2020

31 Dec. 2020

Becomes Effective
April 2, 2020

AGENDA

Part I

Expanded FMLA

Part II

Emergency Paid Sick Leave

Part III

Tax Credits

Part IV

Emergency Unemployment Insurance
Stabilization & Access Act of 2020

Part V

Q & A

Part I – Expanded FMLA

Expanded FMLA

Covered Employer

- Covered public employers and private-sector employers with fewer than 500 employees

Covered Employee

- Has been on the payroll for 30 calendar days

Qualifying Need

- LIMITED: Circumstances where an employee is unable to work or telework due to a need to care for a minor child if the child's school or childcare provider has been closed or unavailable due to a public health emergency

Expanded FMLA

First 10 Days

- Unpaid (Employee can take accrued PTO or sick leave but employer cannot require employee to take accrued paid leave.)

Remaining 10 Weeks

- Paid – 2/3 Employee's regular rate for the number of hours the employee would otherwise be scheduled to work; capped at \$200 per day & \$10,000 total

Job Protection

- Employees must be restored to prior position (or equivalent)
- Exception for employers with fewer than 25 employees if the position no longer exists due to operational changes caused by public health emergency

Expanded FMLA

Exclusions

- Health Care Providers, Emergency Responders

Exemptions

- Small Businesses (fewer than 50) may be exempt if providing required leave would jeopardize viability of business
- No current guidance; not express exemption; not automatic exclusion

Part II – Emergency Paid Sick Leave

Emergency Paid Sick Leave

Covered Employer

- Covered public employers and private employers with fewer than 500 employees

Covered Employee

- Immediate eligibility (no 30-day payroll requirement like Expanded FMLA)

Emergency Paid Sick Leave

Exclusions

Secretary of Labor
Authority

- Health Care Providers and Emergency Responders may be excluded from coverage by employer (employer may opt out)

Exemptions

Secretary of Labor
Authority

- Businesses with less than 50 employees may be exempted if viability of the business is a going concern
- Ensure Consistency between expanded FMLA & emergency paid sick leave standards and tax credits

Emergency Paid Sick Leave

Qualifying Reasons - The employee is unable to work or telework because:

- the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- the employee has been advised by a health care provider to self-quarantine because of COVID-19;
- the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

Reasons 1-3

Emergency Paid Sick Leave

Qualifying Reasons - The employee is unable to work or telework because:

- the employee is caring for an individual subject or advised to quarantine or self-isolate;
- the employee is caring for a son or daughter whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions; or
- the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretary of Labor or Treasury

Reasons 4-6

Emergency Paid Sick Leave

How Long?

- 80 Hours of paid sick time for full time employees
- The typical number of hours an employee is scheduled to work for employees who work less than full time

How Much?

- Employee's Regular Rate of Pay for Employee's Own Illness (Reasons 1-3)
 - Capped at \$511 per day or \$5110 for 80 hours
- 2/3 Employee's Regular Rate of Pay for Employee's Care of Others (Reasons 4-6)
 - Capped at \$200 per day or \$2000 for 80 hours

Emergency Paid Sick Leave

Other Notes

- This is in addition to any paid sick leave an employee may already have
- This paid sick leave will NOT carry over beyond December 31, 2020
- Works in conjunction with Expanded FMLA – employer is required to provide employee with paid sick leave instead of the initial unpaid 10 days of Expanded FMLA if employee is eligible for both

Calculating Rate of Pay

- Based on an average number of hours worked by the employee during the previous six months; for employees who worked less than six months, they are entitled to leave in the amount of hours they would normally be scheduled to work over a two-week period
- Tipped Employees – No specific guidance yet. Best practice until guidance received = calculate an average using a 6-month lookback; ensure not less than minimum wage

Part III – Tax Credits

Tax Credits are against the Employer Portion of Social Security Taxes

Emergency Family and Medical Leave Expansion Act

- Tax Credit Equal to 100% of the qualified family leave wages paid by employers for each calendar quarter in accordance with the Emergency Family and Medical Leave Expansion Act
- Capped at \$200/day; \$10,000/total per individual

Emergency Paid Sick Leave Act

- Tax Credit Equal to 100% of the qualified sick leave wages paid by employers each calendar quarter in adherence with the Emergency Paid Sick Leave Act
- Capped at \$511/day (\$200/day if caring for others) for up to 10 days

Tax Credits are **ONLY** for employers who are required to provide Expanded FMLA and Emergency Paid Sick Leave (ex. fewer than 500 employees)

Part III –
Emergency Unemployment Insurance
Stabilization & Access Act of 2020

Emergency Unemployment Insurance Stabilization and Access Act of 2020

What is it?

- Provides \$1 Billion in Emergency Grants to the State Unemployment Insurance Funds if they Meet Certain Criteria
 - What employers need to know:
 - One of the criteria for states to qualify is that EMPLOYERS provide notification of the availability of unemployment compensation at the time of separation
 - Employers should continue to monitor changes to state unemployment compensation as we have seen some states pass emergency measures that permit and/or require employers to file for benefits on behalf of employees who have been temporarily laid off because of operational changes as a result of COVID-19

Part V – Q & A



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Thank you
&
Stay Safe!