



Families First Coronavirus Response Act



On March 18th, the Families First Coronavirus Response Act was passed. This act contains two key provisions that affect employers: The Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act. The following provides a summary of what employers need to know.

The Emergency Family and Medical Leave Expansion Act

The Emergency Family and Medical Leave Expansion Act amends and expands FMLA on a temporary basis beginning on April 2, 2020 and ending on December 31, 2020. The following are some specifics on the changes to FMLA.

The act covers employers with fewer than 500 employees, but exempts employers with fewer than 50 employees if the leave would threaten the employer's business activity.

All Full and Part-time employees who have worked for the employer for 30 days prior to the defined leave time related to the health emergency are eligible. The Act does allow healthcare providers and emergency responders to be excluded from this.

An employee is eligible if they are caring for a child under the age of 18 due to the child's school or care facility being closed.

The entitlement is the same as the current FMLA, which is up to 12 weeks. The first 2 weeks or 10 workdays are unpaid leave. The employee may use the time off that they have accrued or Emergency Paid Sick Leave during this time. After 2 weeks, the next 10 weeks are paid at least 2/3's their regular rate based on their normal work schedule. Pay is capped at \$200 per day and \$10,000 per employee. Part-time employees or employees whose schedules change must be paid based on the average number of hours worked over the prior 6 months.

Employers with 25 or more employees have the same reinstatement obligations as traditional FMLA. The employee must be allowed to return to the same or an equivalent position. Employers with fewer than 25 employees must make a reasonable effort to return the employee to work for at least 1 year



The Emergency Paid Sick Leave Act (EPSLA)

The Emergency Paid Sick Leave Act (EPSLA) is effective from April 2, 2020 through December 31, 2020.

This act covers all employers with fewer than 500 employees. All Full and Part-time employees are eligible, regardless of tenure. Full Time employees are entitled to 2 weeks or 80 hours of paid sick leave. Part Time employees are entitled to the average number of hours worked during a 2 week period.

Reasons for eligibility can include:

1. The Employee is subject to federal, state or local quarantine restrictions.
2. The employee has been advised by a health care provider to self-quarantine due to COVID-19 concerns.
3. The employee has COVID-19 symptoms and is seeking a medical diagnosis.
4. The employee is caring for someone under quarantine or self-quarantine as described above.
5. The employee is caring for a son or daughter because the school or daycare provider has been closed due to COVID-19 precautions.
6. Other similar conditions if posted by the Department of Health and Human Services.

If the employee is taking the emergency sick time for any of the first 3 reasons listed, the employee receives full pay for the time taken, capped at \$511 per day or \$5,110 per employee.

If the employee is taking the emergency sick time for any of the last 3 reasons the employee is paid at 2/3's their regular rate of pay, capped at \$200 per day or \$2,000 per employee.



The employee can use this leave without using other paid time off the employee may have accrued. Carryover is not allowed. Please be aware that some states have enacted separate emergency paid sick leave laws.

With both of these acts, the employer must make employees aware of the types of leaves that are available. If employees do take leave, the employer can receive tax credits to offset the cost.

Employer Tax Credits

The Families First Coronavirus Response Act (FFCRA) includes terms that provide an employer with a refundable tax credit against employer-paid payroll taxes for each calendar quarter in an amount equal to 100% of the qualified sick leave wages that the employer pays in that calendar quarter. The credit cannot be greater than the payroll taxes for that quarter, reduced by certain other FICA credits.

If you are self-employed, credits are available for both family leave and sick leave and the calculations are similar to those described earlier.



Final Thoughts

There are many details to the Families First Coronavirus Response Act that can be complex. Contact our office with questions or to discuss your specific situation.



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