

Families First Coronavirus Response Act: What All Employers Need to Know

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Emergency Paid Sick Leave

- Which employers are required to provide paid sick leave? **Employers with 500 or fewer workers, government employers, and employers subject to a “multi-employer” agreement.**
- How much paid leave must an employer provide? **2 weeks (80 hours).**
- Which employees are entitled to paid sick leave? **All employees affected by the coronavirus, regardless of time employed with the employer.**
- What rate are these employees paid?
 - If the individual employee is affected: regular rate, capped at \$511/day, or \$5,110 in the aggregate.
 - If the employee is taking leave to care for an individual subject to a quarantine, or for children whose schools have been closed: two-thirds regular rate, capped at \$200/day, or \$2,000 in the aggregate.
- What if the employee makes more than \$130,000 per year? **The employee only receives the capped amount.**
- What if the employee has accrued PTO? **Employees may choose to use the paid sick leave provided by the FFCRA first, and the employer can’t force them to use accrued PTO before or in place of the emergency paid sick leave.**

Paid Family Leave (Expansion of FMLA)

- Which employers are required to provide paid family leave? **Employers with 500 or fewer workers, government employers, and employers subject to a “multi-employer” agreement.**
- How much paid family leave must be provided? **Up to 12 weeks**
- Who is entitled to paid family leave? **Employees who have been employed for at least 30 days and are caring for children whose schools are closed because of the coronavirus.**
- Is the entire leave period paid? **No.**
 - First 10 days: Unpaid (employee may use FFCRA paid sick leave or other accrued leave)
 - Remainder (10 weeks): Paid by employer
- What rate are these employees paid? **Two-thirds of their regular rate.**
 - Capped at \$200/day, or \$10,000 in the aggregate.
- What if the employee makes more than \$75,000 per year? **The employee only receives the capped amount.**

Gig Workers and Self-Employed Workers

- Employees who are self-employed but work for another employer are eligible for the same benefits:
 - **Tax credit of up to 2 weeks paid sick leave (regular rate, same caps apply)**
 - **Tax credit of up to 12 weeks family leave (first 10 days unpaid, then leave at two-thirds rate, same caps apply)**
- To be eligible, employee must show they had to comply with a self-isolation recommendation or had to care for a child whose school was closed due to the coronavirus.
- Both benefits expire at the end of 2020, no rollover.
- Part-time employees are entitled to proportionate benefits.

How Do Employers Afford This?

- The FFCRA provides a tax credit to employers to cover the costs.
 - Credit applied to the tax the employer pays for each employee's Social Security (6.2% of each employee's compensation).
 - If leave costs exceed the employer's Social Security bill, government will send employer a check to cover the difference.
- 50 Employees or Less Loophole:
 - If leave benefits jeopardize the viability of the business, company can obtain an exemption from the Dept. of Labor.
- Health Care Provider Loophole:
 - Health care providers with less than 500 employees can obtain an exemption from the Dept. of Labor and/or opt out of the new law.

Other FFCRA Details

- FFCRA also provides funding to states for:
 - Enhanced unemployment benefits
 - Food assistance programs
 - Free coronavirus testing
- Anti-retaliation provision
- Effective Dates: **April 2, 2020 through Dec. 31, 2020**
 - Does not apply to any actions taken by employers before April 2, 2020.
 - Additional regulations coming soon!

Questions?