



e-Alert: COVID-19

03.24.20

The Families First Coronavirus Response Act

Background

To help counter the negative financial impact to Americans of the COVID-19 outbreak, President Trump officially signed the Families First Coronavirus Response Act (FFCRA) into law on Wednesday, March 18, 2020. The act was passed by the House of Representatives on March 14, underwent revisions on March 16, and was passed by the Senate on March 18.

Summary

There are a few different components to the FFCRA that may have a significant impact on both employers and their employees. This e-Alert does not represent a full description of the FFCRA, but we will try to focus on the most significant areas of the act that could impact your business and employees.

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The major components of the FFCRA are as follows:

- The Emergency Paid Sick Leave Act (EPSLA) – Takes effect on April 2, 2020
- The Emergency Family and Medical Leave Expansion Act (FMLA Expansion Act) – Takes effect on April 2, 2020
- Expansion of Unemployment Benefits
- Tax Credits for Paid Sick Leave and Paid Family and Medical Leave

Emergency Paid Sick Leave Act (EPSLA)

As noted above, the EPSLA will take effect on April 2, 2020, and is set to expire on December 31, 2020.

- The EPSLA applies to all employers with fewer than 500 employees and is available to all full- and part-time employees regardless of term of employment.
- The EPSLA offers up to 80 hours of paid sick leave for full-time employees and the equivalent of two weeks' normal work hours to part-time employees. This paid leave is **IN ADDITION TO** any leave benefits already provided by the employer.
- Employees may take this paid leave under the following circumstances:
 1. The employee is subject to a federal, state, or local quarantine or isolation order because of the coronavirus
 2. The employee has been advised by a healthcare provider to self-quarantine because of the coronavirus
 3. The employee is experiencing symptoms of the coronavirus and is seeking a medical diagnosis
 4. The employee is caring for their child whose school or place of care is closed or unavailable because of the coronavirus
 5. The employee is caring for an individual who has been directed or advised to self-quarantine or self-isolate due to the coronavirus
 6. The employee "is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor"
- Please note that there are two different levels of paid leave depending on which category the employee fits into:
- Employees in categories 1 – 3 (listed above, i.e., those dealing with their own coronavirus-related condition) must receive their regular rate of pay, up to a maximum of \$511 per day and \$5,110 total.
- Employees in categories 4 – 6 (listed above, i.e., those caring for another individual due to coronavirus-related conditions) must receive 2/3 of their normal rate of pay,

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up to a maximum of \$200 per day and \$2,000 total.

- Employers cannot require employees to make use of other leave benefits before using those provided by the EPSLA.
- Employers are required to post notice of EPSLA requirements in a conspicuous place where it will be accessible and viewable by all employees. For remote employees, this may include a digital notice of some kind.

Emergency Family and Medical Leave Expansion Act (FMLA Expansion Act)

Like the EPSLA, the FMLA Expansion Act will take effect on April 2, 2020, and is set to expire on December 31, 2020.

- The FMLA Expansion Act also applies to all employers with fewer than 500 employees; however, the Secretary of Labor is authorized to exempt businesses with fewer than 50 employees if the imposition of these requirements would jeopardize the viability of the business.
- The FMLA Expansion Act is available to full- and part-time employees who have worked for the employer for at least 30 days.
- Eligible employees who are unable to work (on-site or remotely) because they are caring for their child whose school or place of care is closed or unavailable due to the coronavirus may take up to 12 weeks of job-protected leave.
- The first two weeks of this job-protected leave may be unpaid, though employees can make use of accrued PTO or paid leave provided by the EPSLA.
- After the initial two weeks, employers must pay employees 2/3 of their regular rate of pay up to \$200 per day or \$10,000 total per employee.
- Employees who are unable to work due to their own illness or the illness of a family member would be covered under traditional FMLA regulations.

Expansion of Unemployment Benefits

The FFCRA also includes an Emergency Unemployment Insurance Stabilization and Access Act. Like the FFCRA's other provisions, this will remain in effect through December 31, 2020.

- This Act authorizes the Secretary of Labor to provide emergency funding to state unemployment trust funds.
- \$1 billion in emergency state grants have been allocated to help with processing and payment of unemployment insurance benefits.

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Tax Credits for Paid Sick Leave and Paid Family and Medical Leave

To help relieve the financial burden of the FFCRA to employers, tax credits have been authorized as a form of reimbursement for paid sick leave and paid FMLA. Like the FFCRA's other provisions, these tax credits apply through December 31, 2020. Subject to certain caps and restrictions, employers are eligible for refundable tax credits to cover up to 100% of funds paid out to employees for paid sick leave and paid FMLA. Please see your tax professional for more information on these tax credits.

Employer Next Steps

- Before April 2, 2020, create temporary policies and procedures that comply with the requirements of the FFCRA.
- Provide all employees with notice of the FFCRA and updated temporary policies.
- Please note that simply putting up the required posters may not suffice for remote staff; be sure to send out clear digital notices to ensure that you are notifying all employees, not just those physically in the office.
- Remember: Clear, open communication with your employees is essential.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policies, please email us at covid19@hrknowledge.com.



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