

Coronavirus Issues Affecting Employers

03.26.20

The following links are online resources for employers:

- [Centers for Disease & Prevention](#)
- [Interim Guidance for Businesses and Employers](#)
- [EEOC Guidance](#)
- [EEOC - Pandemic Preparedness in the Workplace and the ADA](#)
- [U.S. Department of Labor - Fact Sheet for Employees](#)
- [U.S. Department of Labor - Fact Sheet for Employers](#)
- [U.S. Department of Labor - FAQ Regarding the Families First CV Response Act](#)

The Families First CV Response Act becomes effective on April 1, 2020 and applies to employers with fewer than 500 employees. The Act includes two primary elements:

A. Expanded FMLA – The new law provides that all employees who have been employed for at least 30 days are covered (waives the 1250 hours, one year, 75-mile radius). The expanded FMLA also now allows an employee to take FMLA for up to 12 weeks due to the closure of a child under 18's school or childcare and the employee cannot telework. If the employee can telework, they can work from home and be paid. If an employee takes FMLA because of the school or childcare closure, then the employee must be paid 2/3 of his or her salary, with a cap of \$200 a day (\$10,000 in the aggregate). The employer can provide that the first 10 days (i.e., 2 weeks) are unpaid, but the remaining 10 weeks must be paid. The employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave under this section.

B. Paid Sick Leave – The law also provides that employees get paid sick leave for both part-time and full time employees for one of these 6 reasons:

- i. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19;
- ii. The employee has been advised by a health care provider to self-quarantine related to COVID-19;
- iii. The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis;
- iv. The employee is caring for an individual who is subject to a federal, state or local quarantine order, or the individual has been advised to self-quarantine related to COVID-19;
- v. The employee is caring for the employee's son or daughter, if the child's school or child care facility has been closed or the child's care provider is unavailable due to COVID-19 precautions; or
- vi. The employee is experiencing any other substantially similar condition specified by Health and Human Services in consultation with the Department of the Treasury and the Department of Labor.

Duration of Leave:

For reasons (i)-(iv) and (vi), a full-time employee is eligible for up to 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.

For reason (5) a full-time employee is eligible for up to 12 weeks of leave at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

Calculation of Pay:

For leave reasons (i), (ii), or (iii), employees taking leave shall be paid at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

For leave reasons (iv) or (vi), employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

For leave reason (v), employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period—two weeks of paid sick leave followed by up to 10 weeks of paid expanded family and medical leave)

This paid sick leave is on top of whatever PTO the employer already gives. The law also prevents the employer from changing its current leave policies and from retaliating against employees who exercise rights under the law. An employer cannot require an employee to use other paid leave before this paid leave

The employer is also required to post a notice. The Secretary of Labor has provided an example available at the following web address: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Notice: After the first day, an employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick time.

Payroll Tax Credit

The law provides a payroll tax credit to help employers cover the costs of the wages required to be paid as provided above. Employers may take a tax credit applied to the employer portion of the Social Security payroll tax for both paid sick leave and family leave wages subject to the caps identified above and for certain health plan costs. This is evolving, but you should check with your accountant to see how quickly you can be reimbursed.

[Visit Winstead's COVID-19 Resource Center](#)

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