



March 18, 2020

The President has now signed the Families First Coronavirus Response Act. It takes effect within 15 days (by April 3, I believe). This email lays out what you need to know. I tried to put this in an easy-to-read format:

Emergency Sick Leave.

- Employers with fewer than 500 employees will have to provide employee who cannot work (or work remotely) with paid sick time off if any of the following circumstances exist:
 1. An employee is subject to a coronavirus quarantine or isolation order.
 2. An employee has been advised by a health care provider to self-quarantine because of coronavirus concerns.
 3. An employee is experiencing symptoms of coronavirus and is seeking a medical diagnosis.
 4. An employee is caring for an individual dealing with any of the above issues.
 5. An employee is caring for a child whose school or childcare business is closed, or the childcare provider is unavailable.
 6. An employee is experiencing “substantially similar conditions” specified by HHS/Treasury or Labor Departments (essentially a catch-all if the government needs to use it).
- Full-time employees will receive 80 hours of sick leave. Part-time workers will be granted leave equivalent to an average number of hours worked in a two-week period.
- Employees can use this leave immediately - there is no requirement that an employee has to work a certain period to be eligible.
- Sick time under the FFCRA will not carry over from year to year.
- If an employee is taking time off to care for themselves, that employee is entitled to at least their normal wage (or minimum wage, whatever is greater). Employees taking time off to care others must be paid at least 2/3 of that rate.
- The amount of paid sick leave is capped at \$511 per day and \$5,110 in the aggregate for categories 1-3 above. It is capped at \$200/\$2,000 for leave taken in categories 4-6 (taking care of someone else).
- Employees are limited to 10 days per employee, per calendar quarter.

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- Wages paid out for this sick leave do not have the 6.2% social security payroll tax withheld, that is usually paid by employers.
- This sick leave is in addition to other sick leave already offered by employers. An employer cannot require an employee to use other paid leave before this leave.
- Employers cannot require employees to find other employees to work for them while taking this leave and employers cannot discriminate against employees who take the leave.
- There will be a posting required: the DOL will be putting out a model poster within a week.
- The paid leave and these provisions expire on December 31, 2020.

Emergency Family Leave.

- Employers with fewer than 500 employees must also provide up to 12 weeks of FMLA leave for employees who have been on the job for at least 30 days and who are unable to work (including remote work) because they have to care for a minor child if the school or child care facility has been closed, or if the child care worker is unavailable due to a coronavirus emergency.
- The first 10 days can be unpaid. (an employee can use other paid leave if they so choose). After that, the employee's leave is paid, up to 2/3 of their normal rate and capped at \$200/day and \$10,000 total.
- Generally, the employee must be put back in their job when they return from leave. But, for employers with fewer than 25 employees, this provision does not apply if the position no longer exists because of economic issues or other operating conditions caused by the coronavirus pandemic, AND the employer makes a reasonable effort to put the employee into an equivalent position.
- These wages too are not subject to the 6.2% social security tax.
- The Department of Labor can make exceptions to this provision for businesses with fewer than 50 employees "when the imposition of such requirements would jeopardize the viability of the business as a going concern."
- This also expires on December 31, 2020.

Employer Tax Credits.

- The sick leave credit for each employee will be for wages (including health plan expenses related to those wages) of up to \$511 per day while the employee is receiving paid leave while caring for themselves and \$200/day if caring for someone else. The credit is limited to 10 days per employee per calendar quarter.
- The family leave credit for each employee will be for wages (including health plan expenses related to those wages) of up to \$200 per employee per day, up to \$10,000 in the aggregate for all calendar quarters.



- The tax credit will be provided by being allowed against the employer's portion of Social Security taxes paid. Employers can claim it on their quarterly employment tax returns. In order to assist with cash flow, employers can fund these paid leaves by accessing employment taxes that have been withheld and set aside for depositing with the IRS.
- An employer can elect not to take the credits for a given quarter.

Tax Credits for Sick Leave for Self-Employed Individuals.

- Self-employed individuals can also claim a refundable tax credit the same as the amounts as those set forth above.
- The tax credit is refundable and creditable against income and SE taxes.
- They may need to obtain documentation in order to claim the credit.

Other Provisions of Interest.

- The FFCRA also requires insurance companies as well as federal health programs like Medicare and Medicaid to fully cover testing and related services without any cost-sharing.
- The FFCRA increases funding to Medicaid to assist states in covering tests for uninsured individuals.
- The FFCRA provides additional funds for programs to aid elderly Americans like home-delivered food services and access to food assistance plans like WIC.
- The FFCRA increases funds to state unemployment programs and provides increased flexibility for states to modify their current policies - like waiving the one-week waiting period for UI and waiving the job search requirement (FYI Wisconsin has done both of these already).

I'm sure there are more questions and more details you'll need in the coming days, but I wanted to get this out to you as soon as possible. Things are difficult enough these days, without feeling in the dark about the status of some of these relief packages - as an employer and an employee.

Stay healthy and I'll be in touch with further updates as I am able.

Best,

Mindy Rowland