Families First Coronavirus Response Act: Employee Paid Leave Rights

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor’s (Department) Wage and Hour Division (WHD) administers and enforces the new law’s paid leave requirements. These provisions will apply from the effective date through December 31, 2020.

Generally, the Act provides that employers of covered employees are eligible for:

- Two weeks (up to 80 hours) of paid sick leave at the employee’s regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to federal, state, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee’s regular rate of pay where the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to federal, state, or local government order or advice of a health care provider), or to care for a child under 16 years of age or a school or child care provider is closed or unavailable for reasons related to COVID-19; and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Treasury and Labor; and
- Up to an additional two weeks of paid expanded family and medical leave at two-thirds the employee’s regular rate of pay where an employee, who has been employed for at least 16 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

Covered Employers: The paid sick leave and expanded family and medical leave provisions of the FFCRA apply to certain public employers, and private employers with fewer than 50 employees.

Most employees of the federal government are covered by Title II of the Family and Medical Leave Act, which was not amended by the Act, and are therefore not covered by the expanded family and medical leave provisions of the FFCRA. However, federal employees covered by Title II of the Family and Medical Leave Act are covered by the paid sick leave provisions.

Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to actual closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

Eligible Employees: All employees of covered employers are eligible for two weeks of paid sick time for specified reasons related to COVID-19. Employees eligible for at least 30 days are eligible for up to an additional two weeks of paid family leave if the employee is unable to work because of certain circumstances related to COVID-19.

Notice: When leave is foreseeable, an employer should provide notice of leave to the employee as practicable. After the first workday of paid sick time, an employer may require employees to follow reasonable notice procedures in order to continue receiving paid sick time.

Qualifying Reasons for Leave:

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

- is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- has been advised by a health care provider to self-quarantine related to COVID-19;
- is experiencing COVID-19 symptoms and seeking a medical diagnosis;
- is caring for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- is caring for a child whose school or place of care is closed or child care provider is closed or unavailable for reasons related to COVID-19; or
- is experiencing any other substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Treasury and Labor.

Duration of Leave:

For reasons (1) and (2): A full-time employee is eligible for 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 (3): An employee is eligible for up to 12 weeks of leave (five weeks of paid sick leave followed by up to 10 weeks of paid expanded family and medical leave) over a 12-week period, and a part-time employee is eligible for the number of hours of leave that the employee works on a weekly basis.

For reason (4): An employee is entitled to up to 12 weeks of leave (up to 10 weeks of paid family leave and up to 2 weeks of paid medical leave) over a 12-week period where an employee works 24 hours or more per week (or the average number of hours per week over the previous 12 months) and has been employed for at least 12 months.

Calculation of Pay:

For leave reasons (1), (2), or (3): employees taking leave are entitled to pay at 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 (4) or (6): employees taking leave are entitled to pay 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).

FOR EMPLOYERS

Wage and Hour Division

An agency within the U.S. Department of Labor

300 Constitution Ave NW
Washington, DC 20210
1-866-4-WAGE (1-866-492-4329)

For Employers Resources Resources

FEDERAL GOVERNMENT

WHEN HOUSE

Coronavirus Resources
Symptoms and Social Distancing
COVID-19 Assistance
Disability Rights
COVID-19 Assistance.gov
USA.gov

INTERPRETATION GUIDANCE

Advice of a health care provider to self-quarantine related to COVID-19; or

STATE LAWS

Labor Department

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