

Families First Coronavirus Response Act

Effective date: April 2, 2020

Who's affected: All private entities and individuals that employ fewer than 500 employees.

JOB PROTECTION

What employers must provide: Up to 12 weeks of job-protected leave and pay for employees employed 30 days or longer if one of the following reasons for leave applies:

Reasons for Job-Protected Leave	Pay		
	First 2 weeks (10 days)	Weeks 3 – 12	Max
The employee is unable to work or telework due to a need to care for a child under 18 years of age because that child's school or place of care has closed	Unpaid (unless using PTO/vacation)	2/3 (67%) of normal salary	\$200/day \$10,000 aggregate
The child's childcare provider is unavailable due to a public health emergency with respect to COVID-19.	Unpaid (unless using PTO/vacation)	2/3 (67%) of normal salary	\$200/day \$10,000 aggregate

Who's Exempt:

(A) Employers with fewer than 25 employees if:

1. Employee's position (who took FMLA leave in accordance with the FFCRA) is eliminated due to "economic conditions" or other changes that affect the employer's operations resulting from the public health emergency;
2. Employer makes reasonable efforts to restore the employee to an equivalent position, with equivalent benefits, pay, and terms of employment;
3. If efforts in No. 2 above fail, employer makes reasonable efforts to contact the employee if an equivalent position described in No. 2 becomes available during

the one-year period beginning the earlier of (i) the date the emergency situation concludes or (ii) 12 weeks after the first day employee took FMLA leave under the FFCRA.

(B) Small businesses with fewer than 50 employees if its requirements would jeopardize the viability of the business.

(C) Employers of health care providers or emergency responders who elect to opt-out.

PAID SICK LEAVE

What employers must provide: Up to two weeks (80 hours) of paid sick leave for all employees if one of the following reasons for sick leave apply:

Reasons for Sick Leave	Pay	Max
Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19	Regular rate of pay	\$511/day \$5,110 agg.
Employee is sick with or has been quarantined due to COVID-19	Regular rate of pay	\$511/day \$5,110 agg.
Employee is experiencing symptoms of the disease and seeking medical attention	Regular rate of pay	\$511/day \$5,110 agg.
Employee is caring for an individual who is subject to an order to quarantine or self-isolate or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19	Greater of: (1) 2/3 of regular rate of pay OR (2) Minimum wage	\$200/day \$2,000 agg.
Employee is caring for their child if the school or place of care of their child has been closed, or the childcare provider is unavailable due to COVID-19 precautions	Greater of: (1) 2/3 of regular rate of pay OR (2) Minimum wage	\$200/day \$2,000 agg.
Employee is experiencing any other substantially similar condition specified by the Secretary of HHS	Greater of: (1) 2/3 of regular rate of pay OR (2) Minimum wage	\$200/day \$2,000 agg.

Who's Exempt:

The Secretary of Labor has the authority to exclude/exempt:

(A) Certain health care providers and emergency responders from the definition of "employee" by allowing the employer of such health care providers and emergency responders to opt out;

(B) Small businesses with fewer than 50 employees when the imposition of such requirements would jeopardize the viability of the business as a going concern.

MISCELLANEOUS

- Tax credits are available to employers providing the paid FMLA leave or paid sick leave.
- Employers will need to assess their current paid leave programs to determine how they interact with the FFCRA. Use of telework or other forms of flexibility should be utilized as much as possible to mitigate the impact of FFCRA on small businesses.
- Employers will be required to post notice of the above-referenced employees' rights in a conspicuous location - the Department of Labor will publish model notices by March 25, 2020.