



EMPLOYEE PAY & LEAVE

The Families First Coronavirus Response Act (FFCRA) significantly impacts employers. The two provisions of the FFCRA discussed below will go into effect on April 1, 2020 and will apply through December 31, 2020.

FFCRA authorizes new regulations from the Department of Health and Human Services in consultation with the Treasury Department and the Department of Labor. Once regulations are available, these summary comments may be updated.

Emergency Family and Medical Leave Expansion Act

The Emergency Family and Medical Leave Expansion Act (EFMLA) applies to all private employers with fewer than 500 employees. Even small employers with fewer than 50 employees who are not otherwise required to provide leave under the Family and Medical Leave Act (FMLA) are required to provide leave under EFMLA. However, employers with fewer than 50 employees might be able to apply for an exemption if complying would “jeopardize the viability of the business.”

EFMLA is available for employees who have been employed for at least 30 days and are unable to work, or telework, due to caring for their own children (under the age of 18) as a result of childcare provider or school closures related to COVID-19.

The first 10 days of EFMLA leave are unpaid; however, the leave can run contemporaneously with Emergency Paid Sick Leave Act (discussed below). The employee can also use their vacation or other accrued paid time off during those 10 days. After the first 10 days, the employee must be paid at least 2/3 of the employee’s regular pay. Employees can be required to give as much notice as practicable. Employees are eligible for up to 12 weeks of EFMLA leave.

Emergency Paid Sick Leave Act

The Emergency Paid Sick Leave Act (EPSLA) also applies to all private employers with fewer than 500 employees. Employees are eligible for EPSLA beginning on their first day of employment. Similar to EFMLA, small businesses may have an opportunity for exemption under EPSLA as well, if complying would “jeopardize the viability of the business.”

The qualifying events for an employee to be eligible for EPSLA are as follows:

- (1) The employee is subject to a quarantine or isolation order related to COVID-19;
- (2) The employee has been advised by a health care provider to self-quarantine due to COVID-19;

- (3) The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- (4) The employee is caring for an individual who is subject to a quarantine or isolation order;
- (5) The employee is caring for their son or daughter if the school or childcare provider of the son or daughter has been closed or is unavailable due to COVID-19.
- (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.

The employee can take up to two weeks (10 working days) of EPSLA leave for any combination of above qualifying events. Full time employees can receive 80 hours of pay, and part-time employees can receive pay equivalent to their typical two-week average number of hours. If the employee is off work for qualifying events (1)-(3) above, they can receive a maximum of \$511 per day. The maximum pay for qualifying events (4)-(6) above is two-thirds of the employee's pay, up to \$200 per day.

Further details on the Emergency Family and Medical Leave Expansion Act are available here.
www.congress.gov

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