

The Families First Coronavirus Response Act: Key Provisions

The **Families First Coronavirus Act** takes effect on April 2, 2020 and will remain effective until December 31, 2020. Contained in the Act, there are two key provisions providing paid leave to employees forced to miss work because of the COVID-19 outbreak: an emergency expansion of the Family Medical Leave Act (FMLA) and a new federal paid sick leave law.

Summary

- Provides for two weeks (80 hours) of emergency paid sick leave related to the coronavirus. This provision applies only to employers with 500 or fewer employees.
- Provides paid Family Medical Leave Act (FMLA) leave, paid by the employer at two-thirds of an employee's rate of pay, if the employee is on leave for more than two weeks. This provision applies only to employers with 500 or fewer employees.
- Provides tax credits to employers to offset costs related to the paid sick leave.
- Exempts employers that employ healthcare workers or emergency personnel and provides flexibility for employers that employ 50 or fewer employees from the new emergency paid sick leave and FMLA provisions.
- Increases the Federal Medical Assistance Percentages (FMAP) by 6.2%.
- Provides COVID-19 testing with no cost sharing to the individual.

Paid Sick Leave

- H.R. 6201, as amended, requires employers with fewer than 500 employees to provide two weeks (80 hours) of paid sick leave.
- If an employee is on leave for more than two weeks, the employer is required to provide FMLA leave to equal a total of three months (12 weeks) of leave paid at a reduced rate.
- **The sick leave and FMLA leave must be related to the coronavirus pandemic. Health care providers and emergency responders are excepted from these requirements; employers with fewer than 50 employees can seek an exception.**
- **The bill provides payroll tax credits to offset the costs of providing this leave.** The bill also provides \$1 billion in grant funding to help states manage and expand their unemployment insurance programs during the COVID-19 pandemic. In the case of states with a more than 10% increase in unemployment, the bill would waive requirements to raise the unemployment tax for employers with high lay-off rates.

Sick Leave - for Employers with Fewer than 500 Employees:

- An employer is required to provide an employee with paid sick leave for absences related to COVID-19 diagnosis or treatment, or care of those affected by COVID-19.
- The duration of that paid sick leave is two weeks (80 hours), or equal to the number of hours that a part-time employee works over a two-week period.
- The sick leave is paid at the employee's regular rate of pay, unless the leave is used to care for a family member affected by the coronavirus or child under 18 who cannot go to school or whose childcare provider is unavailable. In that case, the sick leave would be paid at two-thirds of the employee's regular rate of pay.

- The paid sick time must be made available in addition to any paid sick leave an employer might already provide. An employer could not require an employee to use other paid leave that was provided before this entitlement.
- The paid sick leave must be available for use immediately, no matter how long the employee has been employed.
- These provisions are limited to the current COVID-19 pandemic. The bill has a sunset provision on December 31, 2020.

FMLA - for Employers with Fewer than 500 Employees Who Have Been Employed for at Least 30 Days:

- H.R. 6201, as amended, requires employers to offer 12 weeks of job-protected leave under FMLA for absence related to the coronavirus, as specified in the legislation.
Health care providers and emergency responders are exempted from these requirements and employers with fewer than 50 employees can seek an exception.
- The first 10 days of leave that an employee takes under FMLA would be unpaid, but the employee could substitute accrued vacation, paid time off or medical/sick leave.
- For the remainder of the 12-week paid leave period, the employee must be paid at least two-thirds of her regular rate of pay.

Tax Credits to Offset Costs of Paid Sick Leave Entitlement:

- H.R. 6201 establishes optional tax credits for employers for qualified sick leave wages and family medical leave wages and extends similar tax credits for these lost wages to self-employed individuals.
- Tax credits are available for wages paid during the period beginning within 15 days of the bill's enactment and ending December 31, 2020.
- Self-employed individuals also receive a tax credit for sick leave and family medical leave, to be credited against their income tax.

Unemployment Insurance:

- H.R. 6201 appropriates \$1 billion in 2020 for emergency grants to states for activities related to processing and paying unemployment insurance benefits.
- For states with a greater than 10% increase in unemployment, additional grants will be available provided that the state waived certain requirements related to unemployment insurance benefits, including requirements that an employer be taxed at a higher rate if it has laid off a certain number of employees.

Insurance Coverage:

- H.R. 6201 requires private health plans to cover diagnostic testing for COVID-19 at no cost to consumers.
- Private health plans, Medicare Advantage plans, TRICARE, veterans' plans, federal workers' health plans and the Indian Health Service are required to cover, at no cost to the patient, the COVID-19 diagnostic test. They are also required to cover the patient's visit to a provider, urgent care center or emergency room to receive the testing.

- States are permitted to extend Medicaid eligibility to their uninsured populations for COVID-19 diagnostic testing.
- The federal government will match state medical and administrative costs.
- The bill appropriates \$1 billion for HHS's Public Health and Social Services Emergency Fund for diagnostic testing to be administered to the uninsured.

Federal Medical Assistance Percentages:

- H.R. 6201 increases the federal government's FMAP matching to states by 6.2% during the COVID-19 emergency.