



H.R. 6201: Families First Coronavirus Response Act Summary and FAQ

March 26, 2020

H.R. 6201, the Families First Coronavirus Response Act, or the FFCRA, requires certain employers to provide covered employees with paid sick leave and paid family leave for specified reasons related to COVID-19.

Employers Subject to FFCRA:

The act covers private employers with fewer than 500 employees, but an exemption may be available for employers with fewer than 50 employees.

Public agencies (regardless of the number of employees) as defined under the Fair Labor Standards Act (29 United States Code section 203(x)), which includes the government of the United States, the government of a state or political subdivision, any agency of the United States, a state, or a political subdivision of a state or any interstate governmental agency. The Department of Labor has indicated that not all federal employees will be covered by the paid family leave provisions.

Eligible Employees:

Employees who have been employed for at least 30 days are eligible for the expanded paid family leave. All employees are eligible for the paid sick leave.

Family and Medical Leave Expansion:

An eligible employee has the right to take up to 12 weeks of paid, job-protected leave under the Family and Medical Leave Act to be used to care for an employee's child if that child's school or place of care has been closed or the child-care provider is unavailable due to COVID-19.

After the first 10 days of leave, employees will receive a benefit from their employers of no less than two-thirds of the employee's usual pay. The amount of paid leave is capped at \$200 per day and \$10,000 total.

This provision takes effect 15 days after it is signed into law, which will be April 2, 2020, and it will sunset on Dec. 31, 2020.

Emergency Paid Sick Leave:

FFCRA also requires employers to offer sick leave to their employees who are unable to work or telework for the following COVID-19-related absences:

1. An employee is subject to a federal, state or local quarantine or isolation order regarding COVID-19
2. An employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
3. An employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. An employee is caring for an individual subject to the first two qualifying events listed above
5. An employee is caring for a minor child if the child's school or place of care has closed or if the childcare provider is unavailable due to COVID-19 precautions
6. An employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services

Frequently Asked Questions

How much paid sick leave is an employee entitled to?

- Full-time employees — up to 80 hours at 100% wage replacement
- Part-time employees — up to the average number of hours worked over a two-week period at 100% wage replacement

Are there limits to the amount of the paid sick leave benefits?

- For claiming paid sick leave based on reasons #1-3 above, the benefit is capped at \$511/day and \$5,110 total.
- For claiming paid sick leave based on reasons #4-6 above, the benefit is capped at \$200/day and \$2,000 total.

An employee cannot carry over sick time into the next year, nor is an employee entitled to payment of unused sick time upon separation from employment. The employer cannot require the employee to use leave under any existing employer leave program prior to using paid sick leave under the FFCRA. Health care or emergency-responder employers may elect to exclude health care workers from the act. By March 25, 2020, the Department of Labor will publish a model notice that employers must conspicuously post in their workplaces. FFCRA's paid sick leave requirement will sunset on Dec. 31, 2020.

FFCRA also provides employers with certain tax credits to offset the financial costs of these provisions.

Does The Standard have the ability to track the new emergency paid FMLA?

The Standard will administer tracking the FMLA leave under the FFCRA. However, we do not have the capabilities to administer the paid sick leave or the pay aspects of the FMLA.

Is the emergency COVID-19-related FMLA in addition other FMLA rights?

While it's uncertain if the Department of Labor will provide guidance or regulation, it does not appear that FFCRA was intended to make an employee eligible for 12 weeks of regular FMLA plus 12 weeks of paid FMLA due to an employee's need to care for a minor child whose school was closed (or childcare was unavailable) due to COVID-19.

Are benefits paid under the FFCRA considered Deductible Income under The Standard's STD/LTD policies?

The Standard will determine whether a claimant's receipt of paid sick leave due to the claimant's own medical condition based on the specific claim facts and the applicable policy provisions. Paid sick leave and family leave under FFCRA that is unrelated to the employee's own medical condition would not be an offset under our group STD and LTD policies.

How does an employer calculate the 500-employee threshold?

The Department of Labor has stated that existing methods for counting the number of employees under FMLA apply to these paid leaves.

Additional information can be found on the U.S. Department of Labor website:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

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