



Employment Update

Keeping You Informed About Employment Matters

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Families First Coronavirus Response Act: Paid Sick Leave and Emergency FMLA Leave

By Christopher B. Lunny

Effective April 2, 2020, the Families First Coronavirus Response Act (FFCRA) will provide two different federally mandated paid leave options for certain employees impacted by COVID-19. The FFCRA is intended to apply to employers who employ fewer than 500 employees. While the FFCRA contains a host of other benefits, employers should note the creation of Paid Sick Leave and a separate Emergency FMLA Leave that offer greatly expanded benefits. Both leave provisions are set to expire on December 31, 2020. Although the leave provisions include many details, the highlights are covered below:

Paid Sick Leave

- Requires employers to provide up to 80 hours of paid sick leave to full-time employees for COVID-19 related illness. Part-time employees are eligible for less hours, to be calculated by a formula.
- Eligible employees must be subject to quarantine related to COVID-19 *or* been advised by a health care provider to self-quarantine due to COVID-19 concerns *or* experiencing COVID-19 symptoms and seeking a medical diagnosis.
- In addition, eligible employees can also include individuals who are caring for those under certain COVID-19 related events. Similarly, employees caring for a son or daughter due to

school closure or other COVID-19 disruption can also be eligible for leave.

- The compensation benefit is either regular pay, 2/3 of regular pay or less (depending upon triggering event), subject to different caps. The maximum cap is \$511 per day or \$5,110 in aggregate per employee.

Emergency FMLA

- Expands FMLA to provide up to 12 weeks of leave, ten weeks of which are paid. First 10 days of leave are unpaid, but employees can use available PTO or other employer offered benefit.
- Remaining ten weeks is paid at not less than 2/3 the employee's pay for the "number of hours the employee would otherwise be normally scheduled to work," subject to a cap of \$200 per day or \$10,000 in the aggregate per employee.
- Employees will qualify if they have worked 30 or more calendar days for employer.
- Leave is limited to employees who are "unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age" if the child's school, place of care or child care provider is unavailable due to a COVID-19 concern.
- Employers with 25 or more employees are required to reinstate the employee at the end of the leave period; employers with less than 25 employees do not have to reinstate if they meet certain detailed requirements

Employers can offset some of the expense of the paid leave requirements by receiving a tax credit to the employer's portion of the Social Security Tax, subject to a variety of rules and limitations. If you have any questions, contact the Radey Law Firm.

This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.

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