

Families First Coronavirus Response Act

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Summary of Employers Paid Leave Obligations

- President signed into law on March 18, 2020
- Act contains various provisions not applicable to workplace, such as prohibition on insurance plans charging for COVID-19 testing.
- We are only summarizing the two paid leave acts that apply to you.

Who does this cover and when?

- Private employers with fewer than 500 employees (some government employers included)
- Secretary of Labor can exclude those under 50, as of now, those with less than 50 employees are covered.
- Takes effect no later than April 2, 2020.
- Expires December 31, 2020

What do we have to provide?

- Leave 1 - Up to 80 hours (pro-rated for part-time) of paid sick leave. Available for immediate use, regardless of length of employment.
- Leave 2 - Up to 12 weeks of expanded FMLA Leave (after 30 days of employment)

Leave 1 – Emergency Paid Sick Leave



How do employees qualify for Paid Leave?

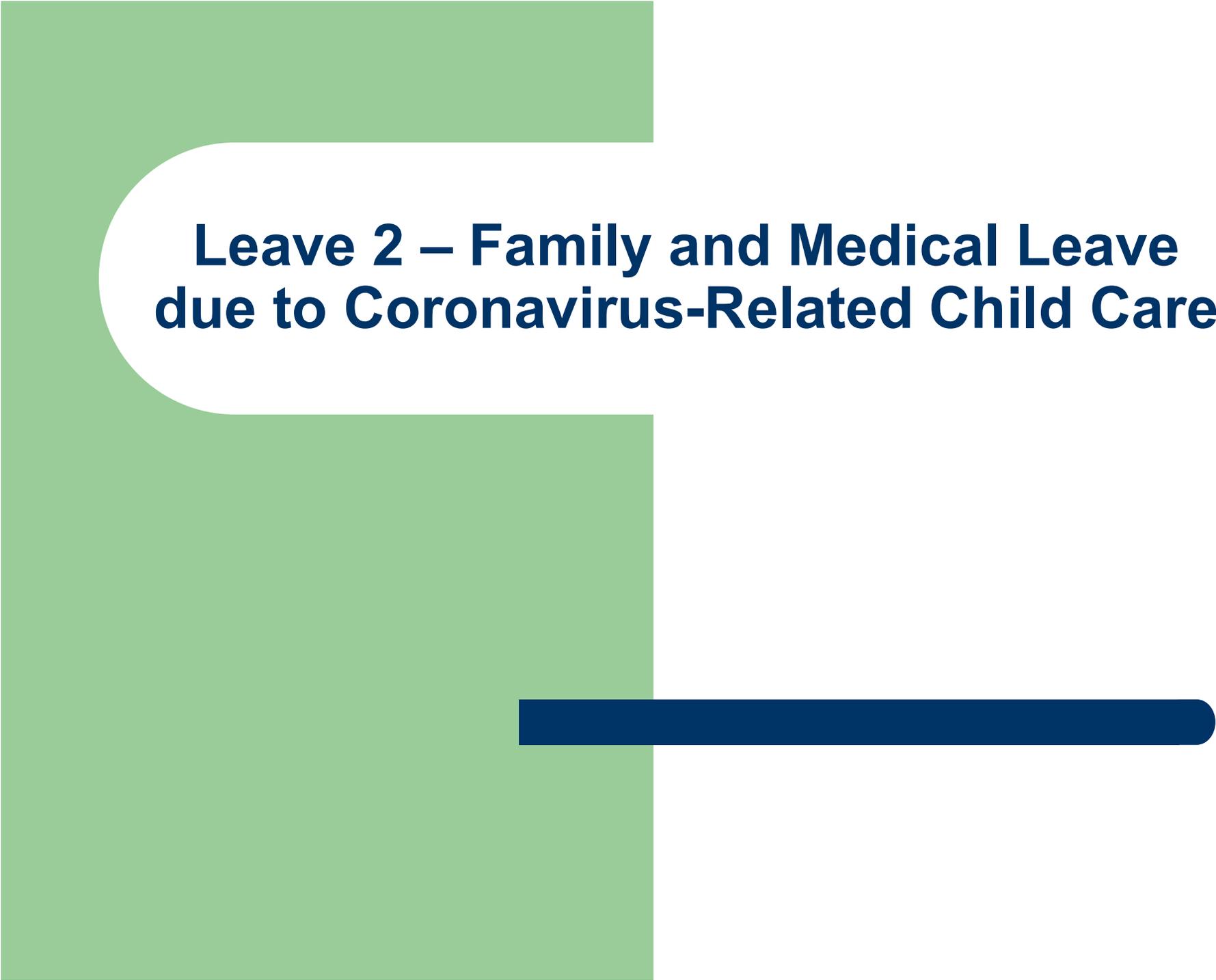
- 100% of pay, capped at \$511
 - Experiencing symptoms of COVID-19 and seeking medical diagnosis
 - Subject to government quarantine or told to by health care provider to self-quarantine/isolate

How do employees qualify for Paid Leave?

- 2/3 of the employee pay, capped at \$200 per day
 - Assisting someone who must quarantine or self-quarantine under doctors orders
 - Caring for a son or daughter if school/child care provider is unavailable due to COVID-19
 - Experiencing any other substantially similar condition specified by Secretary of Health and Human Services

Additional Provisions

- Employers may not require an employee taking paid sick leave to find a replacement for him or her;
- All employees are eligible for paid sick leave, regardless of their length of service with the employer;
- Paid sick leave under the Act is not available for absences due to reasons not described above, such as absences occasioned by the employee's generalized concerns about being out in public;
- Employers may require employees to follow "reasonable" notice procedures after the first workday or portion thereof that an employee receives paid sick leave.
- Paid sick leave under the Act is in addition to any other paid time off benefits already given to employees. Employers may not require an employee to use other available paid leave before utilizing paid sick leave under the Act.



**Leave 2 – Family and Medical Leave
due to Coronavirus-Related Child Care**

Expanded FMLA

- Currently applies to groups of less than 50, not normally covered by FMLA
- Up to 12 weeks of job protected leave to care for the employees son or daughter under the age of 18, if child's school/child care provider is unavailable due to COVID-19 and employee is unable to work or telework.

How much are we to pay?

- The leave can be unpaid during the first 10 days, employees may elect to substitute vacation, personal leave or other benefits (including, presumably, Paid Sick Leave – Leave 1)
- After 10 days, they are paid at 2/3 the employee's rate. Capped at \$200 per day or \$10,000 aggregate.

What employees are eligible?

- Any employees after 30 days of employment

Key Points

- Covered employers must post a notice to employee's about their rights under this act (paid sick leave) once DOL prepares it
- Legislation will expire December 31, 2020, no carry over
- Will become effective within 15 days, once Secretary of Labor issues implementation guidelines

Key Points

- You cannot force employees to use other forms of leave concurrently with the new leave
- You may not change paid leave policies once the legislation is enacted
- Secretary of Labor is empowered to exempt small group if the requirements would jeopardize the viability of the business

Tax Credits

- The act provides tax credits to help cover the benefit cost. Credit is computed on a quarterly basis. Employer would take total amount of qualified sick leave wages (paid in the first 2 weeks) and qualified family leave wages (paid in following 10 weeks) during that quarter and use that as a credit against the employer's social security taxes (6.2%). Excess amounts above the employer portion of the SS tax would be refunded as a credit

Tax Credits

- Excess amounts above the employer portion of the SS tax would be refunded as a credit
- The government will provide a credit against the employer portion of the SS tax that would otherwise be due as follows:
 - Against the social security taxes due for the given period
 - As a refund as if the excess was an overpayment by the employer

For Purposes of Computing the amount of credit

- First two weeks (Qualified Sick Leave Wages Paid). The credit depends on whether the employee is sick, caring for a family member or providing childcare to the employee's child.
 - Sick Employee – the credit is the lesser of the daily wage or \$511 per day, per employee for 10 days
 - Providing Care/Childcare – Credit is the lesser of the daily wage or \$200 per day, per employee for 10 days

For Purposes of Computing the amount of credit

- Expanded FMLA – Next 10 weeks
 - Credit is the lesser of the daily wage or \$200 per employee, per day, credit capped at \$10,000 per employee for a given calendar quarter

Questions?

- Please call with questions.
- We are awaiting guidelines from the Secretary of Labor and will keep you posted as those arrive.