



Families First Coronavirus Response Act

Summary provided by Scott Benefit Services

On Wednesday, March 18, 2020, the U.S. Senate voted to approve H.R. 6102 The Families First Coronavirus Response Act (the Act) that was passed by the U.S. House of Representatives over the weekend. President Trump has signed the bill into law.

The Act requires employers to provide paid leave for some employees related to the coronavirus (COVID-19) pandemic, among other measures. The Act takes effect no later than 15 days after March 18.

COVID – 19 Testing

The Act requires private health plans to provide coverage for COVID-19 diagnostic testing, including the cost of a provider, urgent care center and emergency room visits in order to receive testing. Coverage must be provided at no cost to the consumer.

Emergency Paid Sick Leave

The Act requires two weeks (80 hours) of paid sick leave for full time government workers and employees of companies with fewer than 500 employees. Part time employees must be given the number of hours that they work on average in a two-week period. Leave must be made available immediately to workers who are unable to work (or telework) due to a need for leave for the following:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (4) The employee is caring for an individual who is subject to an order as described in (1) or has been advised as described in (2).
- (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
- (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.

Paid sick leave payment should be based on the employees' regular rate of pay and cannot exceed \$511 per day or \$5110 total in the event of 1, 2, or 3 above. Paid sick leave should be based on 2/3 of the employees' regular rate of pay and cannot exceed \$200 per day or \$2000 total in the event of 4, 5, or 6 above.

The leave time required in The Act is in addition to any other leave provided by the employer, and the employer may not require employees to first use other accrued leave time, although employees may do so if they choose.

Employers must post notices regarding the employee rights provided in The Act; notices are forthcoming from the Secretary of Labor.

The Act expires December 31st, 2020.

Emergency Family and Medical Leave Act

The Act provides FMLA rights for some employees of companies with fewer than 500 employees, requiring partially paid leave after 10 days when an employee who has worked at least 30 calendar days for the employer is unable to work or telework due to school or child care closures related to the coronavirus. This benefit would be paid for 10 weeks following the first 2 weeks which would be paid under the Paid Sick Leave provision described above.

Emergency Paid Family Medical Leave should be based on not less than 2/3 of the employees' regular rate of pay, based on the number of hours they normally work, and cannot exceed \$200 per day or \$10,000 total.

The Secretary of Labor has the right to exempt business with fewer than 50 employees from these requirements if they threaten the viability of the employer.

Exception for Health Care Workers

The Act allows an employer of an employee who is a health care provider or emergency responder to exclude that employee from the application of the Emergency Family Medical Leave Act. The Act gives the Secretary of Labor the authority to exclude certain health care providers and emergency responders from the definition of eligible employee for the Emergency Paid Sick Leave, including by allowing the employer of health care providers and emergency responders to opt out.

Tax Credits for Employers

The Act provides a refundable tax credit equal to 100 percent of qualified paid sick leave wages as well as qualified family leave wages paid by an employer for each calendar quarter.

The tax credit is allowed against the tax imposed by section 3111(a) (the employer portion of Social Security taxes). Qualified sick leave wages are wages required to be paid by the Emergency Paid Sick Leave Act. Qualified family leave wages are wages required to be paid by the Emergency Family and Medical Leave Expansion Act.

Other Provisions

The Act provides funding for economic and nutrition assistance and provides significant unemployment grants to the states. The U.S. Treasury is expected to use its regulatory authority to advance funds to some small businesses to cover the cost of providing paid sick leave.