

Paid Leave: The FMLA Coronavirus Requirements You Need to Know About

Executive Summary

In response to the economic chaos caused by the COVID-19 pandemic, Congress passed a series of rescue measures designed to save the American worker. This includes short-term paid leave provisions under the Family and Medical Leave Act (FMLA). All small business owners should familiarize themselves with the new law.

The Families First Coronavirus Response Act (FFCRA) was passed by Congress to provide paid sick leave and paid expanded family and medical leave under FMLA to most Americans. It's effective from April 1, 2020, through December 31, 2020. Although it covers most private employers, employers of healthcare providers or emergency responders may opt out of the paid leave provisions. If mutually agreeable, paid leave can be provided intermittently rather than in a block.

There are three categories of paid leave under the FFCRA. First, an employee can take two weeks of paid sick leave at his/her full rate of pay if the employee is experiencing COVID-19 symptoms and seeking a diagnosis or is unable to work because he/she is quarantined due to a government order or on the advice of a healthcare provider. Second, an employee can take two weeks of paid sick leave at two-thirds their rate of pay if the employee is unable to work because of the need to take care of an individual subject to quarantine or to care for a child whose school or childcare provider is closed due to COVID-19. Third, an employee can take an additional ten weeks of expanded paid family medical leave at

two-thirds their rate of pay if the employee is unable to work due to a bona fide need for leave to care for a child whose school or childcare provider is closed due to COVID-19.

The two-week period of sick leave is available to all employees regardless of their length of employment. The additional ten weeks of paid expanded leave is available for all employees who have worked for at least thirty days. If an employee is entitled to work remotely, he/she will not be entitled to paid leave.

There are detailed provisions in the FFCRA about exemptions, tax credits and calculations for paid leave. As you can see, these provisions affect almost all businesses regardless of size or longevity of their workforce. To find out more about your rights and responsibilities under the FMLA and FFCRA, contact us to determine whether a business-wide audit of your employment practices is warranted. ■

OUR PRACTICE

We have handled virtually every type of FMLA issue, including prosecuting and defending alleged wrongful termination claims, assessing whether an employee had a "serious health condition," and determining whether employers had the appropriate FMLA leave systems in place.