

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Summary Information

Effective Date:

April 2, 2020

The leave is available for use immediately on the effective date of the new law (April 2, 2020).

Emergency FMLA Expansion

Employers with 499 or less employees must provide up to 12 weeks of job protected leave to eligible employees. Employees are eligible if they have been employed with the employer for at least 30 calendar days before leave begins. (Previously, FMLA leave was available to employers with 50 or more employees and the employee must have been employed for 12 months with a minimum number of hours worked).

Employees can take the leave if they are unable to work (or telework) due to the need to care for a minor child if the child's school and/or place of care has closed due to a declared emergency from Federal, State, or local authorities related to **COVID-19**.

Potential Exclusion:

Employees with less than 25 employees may be excluded in certain instances if economic viability could be threatened (see below).

Details of Leave:

The first 10 days of the leave are unpaid.

Employees can choose to use other accrued paid leave for these 10 days (ie: PTO or vacation time), but employers cannot require they do so.

Thereafter, leave must be paid as follows:

1. Two thirds (2/3) of the employee's regular rate of pay will be paid for the number of hours the employee would otherwise be normally scheduled to work.
2. If an employee has a variable schedule, then two thirds (2/3) of the employee's regular rate of pay should be paid for the number of hours the employee was scheduled to work per day over the 6 month period preceding leave (including any hours the employee had taken leave).
3. If an employee has not been with the employer for the past 6 months, but still qualifies for the leave (meaning employed more than 30 days but less than 6 months), then two thirds (2/3) of their regular rate of pay should be paid for an average number of hours that were conveyed at the time of hire for expected hours.

The maximum amount of employer-paid sick leave is \$200 per day, up to a total of \$10,000.

Employers with Less than 25 Employees

There is some limited flexibility for employers with fewer than 25 employees if the position no longer exists due to economic conditions or operational changes that are made because of COVID-19. If the business cannot return the employee to the same or equivalent position after engaging in reasonable efforts, you may have an exclusion however [this requires further research and clarification](#).

Emergency Paid Sick Leave

Employers with 499 employees or less must provide paid sick time to employees who are unable to work (or telework) for any of the following reasons:

The employee is caring for oneself and:

1. Is subject to Federal, State, or local quarantine or isolation.
2. Has been advised by a health care provider to self-quarantine.
3. Experiencing symptoms of COVID-19 and seeking a medical diagnosis or a test.

or

The employee is caring for someone else:

1. Caring for an individual who is subject to Federal, State, or local quarantine or isolation and/or who has been advised by a health care provider to self-quarantine.
2. Caring for a minor child if their school or childcare provider is closed due to COVID-19 precautions.
3. 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.

Amount of Leave

- Employers are obligated to pay 80 hours of emergency paid sick leave for full-time employees.
- Part-time employees are entitled to emergency paid sick leave for the number of hours they average in a 2-week period.

Pay Rate

Caring for oneself:

If the employee is caring for themselves, pay should be paid at the employee's regular rate subject to a maximum of \$511 per day and \$5,110 in the aggregate.

Caring for someone else:

If the employee is caring for someone else, pay should be at 2/3 the employee's regular rate subject to a maximum of \$200 per day and \$2,000 in the aggregate.

Anti-Retaliation/Anti-Discrimination

An employer may not discharge, discipline or discriminate against any employee who takes leave under the Act or files any complaint or proceeding related to the Act.