

# Families First Coronavirus Response Act (“FFCRA”)

## Emergency Paid Sick Leave Act

(private employers with <500 EEs, & public employers of any size)

- Applies to leave for an EE who is unable to (tele)work because the EE:
  1. Is subject to a govt quarantine/isolation order related to Coronavirus;
  2. has been advised by a health care provider to quarantine for Coronavirus concerns;
  3. is experiencing symptoms of Coronavirus & seeking a medical diagnosis;
  4. is caring for an individual who is subject to an order as described above or has been advised by a health care provider as described above;
  5. is caring for a son or daughter if the child’s school or place of care has been closed or the child’s child care provider is unavailable due to Coronavirus precautions; or
  6. is experiencing any other substantially similar condition specified by the Secretary of HHS in consultation with the Secretary of the Treasury & the Secretary of Labor.
- F/T EEs - 80 hours of paid sick leave.
- P/T EEs - paid leave based on the # of hours worked over an average 2-week period.
- EEs on leave to care for themselves receive their full regular rate of pay for the # of hours they would work per day. Up to \$511 per day (\$5,110 aggregate) per EE.
- EEs who need leave to care for others—including children home from school or without childcare—to only 2/3 of their regular rate of pay (or the applicable minimum wage, if greater). Up to \$200 per day (\$2,000 aggregate) per EE.
- These benefits must be provided by employer in addition to any existing paid leave benefits. EEs can exhaust all available emergency paid leave provided by this Act before they are required to use any otherwise available employer leave benefits.
- No guidance on an employers’ right to request certification or documentation from EE.
- Effective within 15 days of enactment (presumably Apr. 2) through Dec. 31, 2020.

## Health Plan Mandates

(grandfathered & non-grandfathered, group & individual plans)

- Cover FDA-approved, in vitro diagnostic products to detect the virus that causes COVID-19, without cost-sharing, preauthorization, or other med management reqts.
- Cover related services received at the urgent care, ER, or in-person or telehealth visits resulting in an order for or administration of a covered diagnostic test.
- Effective from enactment for the length of the declared public health emergency.

## Tax Credit

- Payroll tax credits for employers in compliance with these Sick & Family Medical leaves.
- The credit increases for employers who maintain & incur pay group health plan expenses “allocable” to these leave payments under rules to be prescribed by the Treasury Sec.
- Limits apply, such as the amount of wages & # of days.
- Certain governmental employers do not qualify.

## Emergency Family Medical Leave Expansion Act

(employers with <500 EEs)

- Leave through Dec. 31, 2020 for eligible EEs to care for their child (under age 18) if the child’s school or childcare is closed, or the child’s childcare provider is unavailable, due to a public health emergency.
- Employers with <50 EEs may be exempt (at the discretion of the Sec. of Labor).
- Applies to EEs who have worked for only 30 days (or more).
- Employers may provide the first 10 days of this leave without pay.
- EEs can use otherwise accrued paid leave during the initial 10 days, but employers cannot require EEs to do so, no matter how their policies may read.
- EEs can use their paid sick leave provided by the Emergency Paid Sick Leave Act.
- After this initial 10-day period, employers must provide add’l paid leave to their EEs for the remaining 10 weeks, but only at 2/3’s of the EE’s regular rate of pay for the # of hours the EE would normally be scheduled to work. Up to \$200 per day (\$10,000 aggregate) per EE.
- EEs must give their employers as much notice as practicable for this leave.
- No guidance on an employer’s right to request certification or documentation from EE.
- No changes to existing FMLA reqts including health benefit provisions.

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