



## **MEMORANDUM**

The Families First Coronavirus Response Act (FFCRA) amends the Family and Medical Leave Act (FMLA) to add paid leave provisions for employees off work for reasons relating to the Coronavirus/COVID-19 disease and is applicable to governmental employers subject to the Fair Labor Standards Act (“covered employers”).

The final version of the FFCRA provides the following paid leave benefits to employees who have been employed for at least 30 calendar days by the covered employer:

- Up to 80 hours of paid sick leave (prorated for part-time employees for average hours worked in the prior two weeks), available for immediate use regardless of length of employment, if the employee cannot work (or telework) because he/she:
  - Is experiencing symptoms of COVID-19 and seeking a medical diagnosis, which is paid at 100% and capped at \$511 per day and \$5,110 in the aggregate.
  - Is subject to a government quarantine, has been told by a health care provider that he or she should self-quarantine, or is experiencing symptoms of COVID-19 and seeking a medical diagnosis, which is paid at 100% and capped at \$511 per day and \$5,110 in the aggregate (or assisting an individual who must quarantine/self-quarantine for those reasons, which is paid at 2/3<sup>rd</sup> the employee’s pay rate and capped at \$200 per day and \$2,000 in the aggregate).
  - Is caring for a son or daughter (under age 18) if his/her school/child care provider is unavailable due to COVID-19, which is paid at 2/3<sup>rd</sup> of the employee’s pay rate and capped at \$200 per day and \$2,000 in the aggregate.
  - Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, which is paid at 2/3<sup>rd</sup> of the employee’s pay rate and capped at \$200 per day and \$2,000 in the aggregate.
  - An employer may not require, as a condition of providing paid sick time under the FFCRA, that the employee search for or find a replacement employee to cover the hours during which the employee is using paid sick time.
  - The paid leave required by the FFCRA can be satisfied for employees working under a collective bargaining agreement by benefits provided from contributions to a multiemployer fund, plan, or program.

- Up to 12 weeks of expanded FMLA leave, unpaid during the first 10 days (but now usually covered by the 80 hours paid leave provided above), and then paid at 2/3<sup>rd</sup> of the employee's pay rate, capped at \$200 per day and \$10,000 in the aggregate, and available to anyone after 30 days of employment for time to care for the employee's son or daughter if the child's school/child care provider is unavailable due to COVID-19 and the employee is unable to work (or telework). A part-time employee's paid benefit is calculated using the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave. If the part-time employee did not work over such period, then the employer is to use the expected average number of hours per day that the employee would normally be scheduled to work.

### **Other Requirements:**

- An employer cannot force employees to use other forms of leave concurrently with the new and additional leave provided by the FFCRA, but an employee can elect to use available paid time off from the employer.
- Covered employers must post a notice to employees about their rights under the FFCRA for the 80-hour paid leave benefit after the Department of Labor provides the sample notice.
- The FFCRA expires on December 31, 2020, and any unused time will not carry over from one year to the next.
- Covered employers may not change paid leave policies after the FFCRA's effective date to avoid being subject to the paid leave provisions.
- A covered employer may elect to exclude health care providers and emergency responders from the paid leave benefits.
- Emergency responders include: "public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility."