

The Families First Coronavirus Response Act Passes

On March 18, 2020, the Families First Coronavirus Response Act was passed. This Act contains components designed to assist employers and employees with the effects of the Coronavirus upon their business and their ability to work. This new Act provides emergency paid sick leave, expands the Family and Medical Leave Act, and creates tax credits for employers in light of this new leave. The Act is to go into effect no later than 15 days after the date it is enacted, or April 2, 2020. The Secretary of Labor is going to issue additional guidelines to assist employers with applicable calculations and implementation details. Below we break down each of these components.

Emergency Paid Sick Leave

The Act requires two weeks of paid sick leave for government workers and employees of companies with fewer than 500 employees. Leave must be made available to workers who cannot work or telework because they:

- are symptomatic and seeking a medical diagnosis
- are under an order to self-isolate or quarantine
- have been advised from a healthcare provider to quarantine or self-isolate,
- are caring for a family member under such an order or under advice from a healthcare provider to quarantine, or
- have a child whose school or child care provider or facility has closed due to the coronavirus.

Full-time employees are entitled to 80 hours of paid leave, while part-time employees are entitled to be paid for the average number of hours they worked the two weeks prior. Depending upon which of the above reasons for leave apply, the employee is to be paid either their regular rate of pay or 2/3rds the employee's regular pay. Employers cannot require that their employees use other paid leave before using this Emergency Paid Sick Leave where it applies.

The Act provides that future regulations issued by the Dept. of Labor may exempt health care providers and small businesses with fewer than 50 employees from the paid sick leave requirement. As mentioned, additional guidelines will be issued in the near future.

Expanded Family and Medical Leave

The Expanded Family and Medical Leave applies to only certain Coronavirus-related conditions. This Expanded FMLA applies to employers with fewer than 500 employees and government workers. For those employees who have been on the job for at least 30 days with an employer subject to the Expanded FMLA, such employees are to be provided 12 weeks of paid family and medical leave if the employee is unable to work due to a need to care for the employee's child because the child's school or daycare has been closed due to the coronavirus. Under this Expanded Family and Medical Leave, the first 10 days of the leave may be unpaid. Keep in mind that the Emergency Paid Sick Leave mentioned above may apply, and in that case it could fill in this gap. Employees may also use other applicable accrued paid leave during those 10 days. Thereafter once the first 10 days of Expanded FMLA have passed, those employees still

out on Expanded FMLA are to be paid at least 2/3rds of the employee's regular pay, though such pay is not to exceed \$200/day, \$10,000 in the aggregate.

Payroll Tax Credit

Employers will receive a tax credit for the qualified sick wages they pay out under the Emergency Paid Sick Leave and the Expanded Family and Medical Leave Act, subject to the maximums provided under the Act.

Coronavirus conditions and responses are rapidly evolving. McGohan Brabender strives to help keep our clients informed. McGohan Brabender does not provide legal or employment law advice, though we are here to assist our clients however we can with their benefit needs. We are all in this together.