

Families First Coronavirus Response Act Signed by President

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Amidst the escalating COVID-19 crisis, and in an effort to move nationwide relief out quickly to those affected, President Trump signed the Families First Coronavirus Response Act (<https://www.congress.gov/bill/116th-congress/house-bill/6201>) (FFCRA) last night. It will become effective on April 2, 2020, and remain in effect until December 31, 2020.

The FFCRA provides significant emergency paid sick leave and emergency paid family and medical leave measures for those affected by the COVID-19 pandemic. It also guarantees free coronavirus testing, enhances unemployment insurance, strengthens food security initiatives, and increases federal Medicaid funding to states.

There are two major provisions HR professionals will need to know related to required paid leave. The following lays out their basic obligations.

Emergency Paid Sick Leave

The emergency paid sick leave provisions require private employers *with fewer than 500 employees* and public employers with at least one employee to provide **up to two weeks of paid sick leave**. This entitlement is provided as a lump sum and does not “accrue” like many existing mandated paid sick policies.

Full-time employees are entitled to two weeks (80 hours) of paid leave at their regular rate of pay, while part-time employees are entitled to the typical number of hours they work in a typical

two-week period. The emergency leave is *in addition to* any paid leave provided by employers.

Employee Coverage

Covered employers are required to provide paid sick leave to an employee who is unable to work or work remotely because he or she is subject to a federal, state, or local quarantine or isolation order related to COVID-19. Under these circumstances, the employee is entitled to the regular rate of pay.

However, when caring for a family member, due to a quarantine or when a dependent's place of care is closed due to COVID-19 precautions, sick leave is paid at *two-thirds the* employee's regular rate. Payments are capped at \$511 a day, (\$5,110 in total) for dealing with an employee's own illness or quarantine. Employees who care for individuals affected by the coronavirus, and those whose children's schools have closed, receive up to two-thirds of their pay, and that benefit is limited to \$200 a day (\$2,000 in total).

It's important to note that any paid leave provided *before the* law is enacted *cannot be* credited against the employee's paid leave entitlement. In addition, hours cannot be carried over after December 31, 2020 (when the legislation sunsets).

Emergency FMLA Expansion

The emergency paid family provisions under the FFCRA amend the Family and Medical Leave Act (FMLA) and require employers to provide paid benefits in certain situations. This applies to employers *with fewer than 500 employees*. NOTE: This temporary change is a departure from the current provision that applies to employers of 50 or more employees.

The FFCRA includes language allowing the Secretary of Labor to exclude healthcare providers and emergency responders from the definition of employees who can take emergency leave. In addition, the Secretary of Labor may exempt small businesses (defined as fewer than 50 employees) if the required leave would jeopardize the viability of their business.

Employee Coverage

Covered employers are required to provide paid family leave (after 10 days of unpaid leave) to any full-time or part-time employee that has been on the employer's payroll for 30 days, prior to taking the leave. NOTE: This is a significant departure

from the FMLA's usual requirement that the employee work for the employer for 12 months and 1,250 hours in the 12 months prior to taking leave.

After ten days of unpaid leave, employees are entitled to **12 weeks of job-protected leave of at least two-thirds their usual pay**. This can be taken by employees only if they can't work because they need to care for a child (under 18 years of age) if the child's school or place of care is closed (or the childcare provider is unavailable) due to a public health emergency.

The cap of this entitlement is \$200 per day. Part-time employees are entitled to be paid based on the average number of hours worked for the six months prior to taking the leave. An employee may elect to take any existing pay benefit (PTO, vacation or sick leave) during the 10-day unpaid period.

Employers with less than 25 employees are excluded from restoring the employee to his previous position if the employee's position no longer exists due to significant economic factors.

Doctor's Note During This Time

The CDC recommends that people who are experiencing respiratory illness stay home until they are free of fever and other symptoms for at least 24 hours without the use of medicines (e.g., aspirin and cough suppressants).

Although not specifically addressed in the FFCRA, we recommend that you do not require a health care provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as health care provider offices and medical facilities are *very busy* and will likely not be able to provide the documentation.

Tax Credits

To ease some of the financial burden, employers will be allowed to claim a limited refundable tax credit equal to payments made to employees. For example, under the Emergency Paid Sick provisions, employers can claim up to \$511 or \$200 for any day of absence for the reasons outlined above, to a maximum of ten days per employee for the year. Under the Emergency FMLA provisions, employers can claim up to \$200 for each day of qualifying leave up to \$10,000 per employee for the year.



To help answer your questions related to the Families First Coronavirus Response Act, MRA will host an attorney-led, live stream briefing (watch your email for details!), along with providing additional support through our [website resources \(https://www.mranet.org/covid-19-updates\)](https://www.mranet.org/covid-19-updates). and **HR Hotline at 866.474.6854 (tel:866-474-6854) or email at [infonow@mranet.org \(mailto:infonow@mranet.org?subject=24/7%20HR%20Hotline\)](mailto:infonow@mranet.org). We're here to help you!**

[EEOC Relaxes Position on Taking Employees' Temperatures](#) ([./article/inside-hr/eeoc-relaxes-position-taking-employees-temperatures](#)).
March 19, 2020
Publication
/ Employee & Labor Relations, Recruiting & Hiring, ADA & Accommodations

[Tech Tips for Working Remotely During the COVID-19 Pandemic](#) ([./article/inside-hr/tech-tips-working-remotely-during-covid-19-pandemic](#)).
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[The Keys to Managing Remote Employees](#) ([./article/inside-hr/keys-managing-remote-employees](#)).
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