



Families First Coronavirus Act

what does it mean for you?

On March 18, 2020, the Families First Coronavirus Response Act (was signed into law to offer financial relief and stability to American families during the COVID-19 pandemic.

The act includes provisions for additional funding for unemployment, supplemental funding for nutrition programs, insurance coverage of COVID-19 testing, eligibility expansion for family leave laws and paid sick leave for many workers.

We have created a short guide to explain the provisions for testing, family leave laws and paid sick leave, as these mandates will impact U.S. employers both large and small.

The U.S. Department of Labor is implementing regulations for FFCRA. To help employers better understand compliance requirements, the DOL continues to post additional FAQs on its website.





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Testing For COVID-19

The legislation requires private health plans (including fully insured, self-funded and grandfathered plans) to provide coverage for COVID-19 diagnostic testing and related services to employees and their covered dependents with no cost sharing (e.g., deductible, copayment or coinsurance).

Related services include in-person and telehealth provider consultations and facility costs related to COVID-19 diagnosis and treatment. In addition, health plans cannot require prior authorization for COVID-19 testing or services.

This regulation is in effect until the end of the national emergency period.

Emergency Paid Sick Leave Act & Emergency Family and Medical Leave Expansion Act

These two acts are separate, but some of the definitions overlap. We have put the two acts into a grid along with traditional unpaid FMLA as a visual representation of the similarities and differences.

Both the Emergency Paid Sick Leave Act and the Emergency FMLA Expansion Act take effect April 1, 2020, and will remain in effect until December 31, 2020.

The acts are not retroactive and will only apply to leave taken between April 1 - Dec. 31, 2020.



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Reason for Leave	Emergency Paid Sick Leave Act	Emergency FMLA Expansion	Typical FMLA Unpaid Leave
Definition of "employee"	<i>All full or part-time employees regardless of how long the employee has worked for the employer</i>	Any full or part-time employee that has been on the employer's payroll for 30 days prior to taking leave	Any full or part-time employee that has worked 1250 hours prior to taking leave
Definition of "covered employer"	<i>fewer than 500 employees</i>	<i>fewer than 500 employees</i>	50 or more employees
Subject to a federal, state or local quarantine or isolation order related to COVID-19	2 weeks paid at 100% up to \$511 per day and \$5,110 aggregate	N/A	Needs to be considered a serious health condition under FMLA
Advised by a healthcare provider to self-quarantine due to COVID-19 concerns	2 weeks paid at 100% up to \$511 per day and \$5,110 aggregate	N/A	Needs to be considered a serious health condition under FMLA
Experiencing COVID-19 symptoms and seeking medical diagnosis	2 weeks paid at 100% up to \$511 per day and \$5,110 aggregate	N/A	Needs to be considered a serious health condition under FMLA
Caring for an individual (not limited to family members) subject to a federal, state or local quarantine or isolation order or advised by a healthcare provider to self-quarantine due to COVID-19 concerns	2 weeks paid at 66.6% up to \$200 per day and \$2,000 aggregate	N/A	Needs to be considered a serious health condition under FMLA
Caring for the employee's child if the child's school or place of care is closed or the child's care provider is unavailable due to public health emergency	2 weeks paid at 66.6% up to \$200 per day and \$2,000 aggregate	First 10 days unpaid, then 2/3 pay up to \$200 per day and \$10,000 aggregate	Needs to be considered a serious health condition under FMLA
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.	2 weeks paid at 66.6% up to \$200 per day and \$2,000 total	N/A	Needs to be considered a serious health condition under FMLA

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Emergency Paid Sick Leave Act

This act requires private employers with fewer than 500 employees (with exemptions for healthcare, among others) to provide paid leave at varying dollar amounts for up to 80 hours. All employees, regardless of duration of employment are eligible for this benefit. This paid leave is available to full-time and part-time employees.

Employees will be paid for leave at their regular rate of pay (up to a maximum \$511/day and \$5,110 in total) for the following reasons:

1. Employee subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. Employee advised by a healthcare provider to self-quarantine due to COVID-19 concerns.
3. Employee experiencing COVID-19 symptoms and seeking medical diagnosis.

Employees will be paid for leave at 66.67percent of their regular rate of pay (up to a maximum \$200/day and \$2,000 in total) for the following reasons:

1. To take care for an individual who qualifies under #1 or #2.
2. To care for a child if school or place of care is closed due to COVID-19.
3. When experiencing other substantially similar conditions.

The total amount of Emergency Paid Sick Leave allowed per employee is capped at 80 hours for any combination of qualifying reasons.



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Emergency Family and Medical Leave Expansion Act

This act applies to employers with 500 or fewer employees and employees must have worked for the employer for at least 30 days prior to the designated leave to be eligible for leave.

The act temporarily expands entitlement to 12 weeks of job-protected leave for the sole purpose of granting benefits to employees who are unable to work or telework because they need to care for their child (under 18) if the child's school or place of care is closed or the childcare provider is unavailable due to a public health emergency.

The expansion act requires employers to pay employees a partial wage during Emergency FMLA leave for COVID-19.

- First 10 days of Emergency FMLA leave can be unpaid or employees may choose to either:
 1. Use the 80 hours of paid sick leave under the Emergency Paid Sick Leave Act.
 2. Substitute accrued paid time off, but the employer cannot require it. (This is different from traditional FMLA where an employer may require the employee to exhaust paid leave during FMLA leave.)
- Remaining 10 weeks of Emergency FMLA leave would be paid at two-thirds of the employee's regular rate for the number of hours the employee would otherwise be scheduled to work.
- The act limits the amount of required pay to no more than \$200 per day and \$10,000 total.
- Act includes tax credit to reimburse employer up to required pay amounts.

Employees under the Emergency FMLA Expansion Act are entitled to the continuation of group health insurance coverage under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period.





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FMLA and Wisconsin FMLA

FMLA entitles eligible employees of covered employers (50 employees or more) to take up to 12 weeks of unpaid, job-protected leave for specified family and medical reasons which may include contagious illnesses [if complications arise that create a “serious health condition” as defined by the FMLA](#). Employees must have worked for their employer for at least 12 months and have at least 1,250 hours of service over the previous 12 months.

Wisconsin FMLA entitles eligible employees to take up to 2 weeks unpaid leave for the serious health condition of parent, child or spouse, and up to 2 weeks unpaid leave for employee’s own serious health condition. [Both eligibility criteria and serious health condition criteria are slightly less stringent under Wisconsin FMLA.](#)

It is possible to qualify for leave under one law and not both. If an employee qualifies for both, the leave period would run concurrently.

Employees under either FMLA are entitled to the continuation of group health insurance coverage under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period.

Under federal FMLA, the employer may choose to require the employee to substitute paid time off (e.g., accrued PTO or vacation days) for unpaid time, however, under Wisconsin law, it’s the employee who has the choice to substitute paid time.

We continue to monitor the evolving COVID-19 outbreak and related business implications. We will update our guidance as more information becomes available. In the meantime, we encourage you to reach out to our team with your questions and concerns. We are here to help you navigate this difficult and challenging time.

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