

Families First Coronavirus Response Act

On March 18, 2020 President Trump signed into law the Families First Coronavirus Response Act (the “CRA”). This was an expansive bill encompassing multiple facets of issues related to the COVID-19 pandemic.

For U.S. private employers with less than 500 employees and all public agency employers with one (1) or more employees (“Covered Employers”), the Act:

- Creates a Federal paid sick leave law providing for employer-paid leave of up to 80 hours to employees for COVID-19 issues.
- Provides up to 12 weeks of leave under FMLA for eligible employees who have been employed for at least 30 days and are unable to work (or telework) due to a need to care for a son or daughter under 18 years of age when their school or place of care has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19.



Emergency Paid Sick Leave

Covered Employers must provide paid sick leave in connection with COVID-19. The CRA’s paid sick leave applies to all employees, even those employed less than 30 days, and applies to all Covered Employers. Employers may exclude employees who are health care providers or emergency responders from the sick leave requirement, but are not required to exclude them.

The chart below illustrates the reasons for paid leave, the rate of pay, the cap on benefits, and the duration of the leave.

Covered Reasons for Paid Leave	Rate of Pay	Cap on Payments	Duration of Leave
(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19	The employee’s regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e))).	\$511 per day and \$5,110 in the aggregate	80 hours of leave in a two-week period
(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19	The employee’s regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e))).	\$511 per day and \$5,110 in the aggregate	80 hours of leave in a two-week period
(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.	The employee’s regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e))).	\$511 per day and \$5,110 in the aggregate	80 hours of leave in a two-week period
(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).	Two-thirds of the employee’s regular rate of pay.	\$200 per day and \$2,000 in the aggregate	80 hours of leave in a two-week period
(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.	Two-thirds of the employee’s regular rate of pay.	\$200 per day and \$2,000 in the aggregate	80 hours of leave in a two-week period
(6) The employee is 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.	Two-thirds of the employee’s regular rate of pay.	\$200 per day and \$2,000 in the aggregate	80 hours of leave in a two-week period



Expanded FMLA

The CRA requires Covered Employers to temporarily expand (April 1, 2020 through December 31, 2020) FMLA protections and benefits to employees who have been employed 30 calendar days and need leave as a result of a school closure or closure of a childcare provider due to the public health emergency related to COVID-19.

The new expanded FMLA leave includes both unpaid and employer paid leave. The first 10 days of the COVID-19 FMLA leave are unpaid. During this period of unpaid leave, an employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave. After the 10 day unpaid leave period, Covered Employers must pay employees at two-thirds of the employee's regular rate of pay. The amount of such paid leave should not exceed \$200 per day and \$10,000 in the aggregate.



Potential Tax Credits

Beginning on April 1, 2020 and ending on December 31, 2020 the CRA provides a refundable payroll tax credit for employers providing paid family leave or paid sick leave wages required under the CRA due to COVID-19. The final rule includes credit for an employer's qualified health plan expenses allocable to wages associated with the respective leaves.

A refundable payroll tax credit is allowed for 100% of wage payments made under expanded FMLA. However, for each employee, the credit is capped at \$200 per day and \$10,000 in the aggregate.

A refundable payroll tax credit is also allowed for private employers for 100% of payments made for qualified sick leave wages. However this credit is limited in several ways.

- Wages taken into account are generally capped at \$511 per day per employee.
- Wages taken into account are generally capped at \$200 per day per employee for employees caring for a family member or for a child whose school or place of care has been closed.
- Only 10 days in aggregate may be taken into account.



Notice

Covered Employers must provide notice of the provisions to their employees. These provisions will apply from April 1, 2020 to December 31, 2020. For Frequently Asked Questions concerning the notice please use the link below to access the Department of Labor website.

<https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>

Please use the following link to access a copy of the poster that must be placed in a conspicuous place where your employees will see it or sent electronically to employees working remotely.

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Federal.pdf

Benefits, inc.

www.benefits-inc.com
(615) 446-3303

Prepared by Kyle Sanders & Taylor Luther