Does the Families First Coronavirus Response Act (FFCRA) Apply to Your Company?

Emergency FMLA Expansion Act – (Child-Care Leave) | Emergency Paid Sick Leave Act – (Sick Leave)
Effective 4/1/2020-12/31/2020

A. Coverage under FFCRA Inquiry

1. Is the employer covered by the FFCRA?
   - YES
   - NO

2. Does the private employer have less than 500 employees or the public employer have more than one employee?
   - YES
   - NO

3. Is the workplace closed?
   - YES
   - NO

4. Is the employee a health care provider (as defined in FMLA) or a first responder and has the employer elected to exclude such employee from the sick and child-care leave benefits?
   - YES
   - NO

5. Does the employee qualify for sick leave?
   - YES
   - NO

Go to section B below.

B. Benefits May Be Available

- NO
  - Private employer has 500 employees or more, or
  - Is a joint employer (FLSA) with 500 employees or more, or
  - Is an integrated employer (FMLA) with 500 employees or more

- YES

B. Benefits Are Not Available
B. Paid Sick Leave Benefit Inquiry

How is sick leave pay calculated?

**REASONS 1-3**
Sick pay is paid at the employee’s regular rate or applicable minimum wage, whichever is higher, up to $511/day or $5110 for the two-week period.

**REASONS 4-6**
Sick pay is paid at 2/3 the employee’s regular rate or applicable minimum wage, whichever is higher, up to $200/day or $2000 for the two-week period.

 Though the employer has available work, is the employee unable to work or to telework for one of the following reasons?

1. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine related to COVID-19;
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. Is caring for a child whose school or place of care is closed (or child-care provider is unavailable) for reasons related to COVID-19 (Exemption for small businesses with less than 50 employees may apply. See child-care leave benefits on page 3.); or
6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

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FTE is eligible for up to 80 hours of sick leave. PTE is eligible for leave equal to the average number of work hours in a two-week period up to a maximum of 80 hours.

SICK LEAVE BENEFITS ARE NOT AVAILABLE.
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C. Child-Care Leave Benefit Inquiry

- Is the employer with less than 50 employees exempted under the small business exemption from paying for child-care leave and sick leave related to school closure/child-care unavailability?
  - **NO**
    - Child-care benefits may be available.
  - **YES**
    - Child-care benefits may be available.

- Has the employee been included on the employer’s payroll for 30 calendar days or more before the day leave begins?
  - **YES**
    - Child-care benefits may be available.
  - **NO**
    - Child-care benefits are not available.

- Is the employee unable to work because the employee must care for a child who is under 18* and whose school or child-care provider is closed or unavailable due to reasons related to COVID-19?
  - **YES**
    - Child-care leave is available.
  - **NO**
    - Child-care leave is not available.

- How much child-care leave is available to an employee?
  - Child-care leave is available.

- Must an employee be re-instated to their same or equivalent pre-leave position at the end of the leave period?
  - Generally, yes as to the same or an equivalent position.
  - Exceptions exist for circumstances involving business closures, layoffs and key employees as provided under the FMLA, and under the Expanded FMLA, for employers with less than 25 employees that satisfy four conditions for a hardship exemption.

- How is child-care leave calculated?
  - Employees are eligible for a minimum of 2/3 of their regular rate of pay for the hours the employee is normally scheduled to work.

- Employee may receive up to 12 weeks of protected leave: 2 weeks of unpaid child-care leave and 10 weeks of paid child-care leave.
  - For the first 10 days of unpaid child-care leave, employee may opt to substitute up to 2 weeks of emergency paid sick leave under FFCRA or may apply existing paid leave under an employer’s policy.
  - Paid child-care leave is capped at $200/day or $12,000 for the ten-week period.

(*or an adult child who is 18 years or older and incapable of self-care due to a disability)