

Summary of the Families First Coronavirus Response Act

In March, President Trump signed H.R. 6201, the Families First Coronavirus Response Act. The WMC Policy Team has fielded many questions from employers seeking clarification on what is the bill. This summary will walk through the various components of the final bill as signed by President Trump.

The new law contains many parts. Key provisions for employers include unemployment benefits, paid sick leave, and paid FMLA to care for a child now home because their school or daycare is closed.

Unemployment Benefits

H.R. 6201 loosens the federal rules for states on items like waiting periods and definitions on claimant eligibility, with a goal of getting benefits to impacted workers as quickly as possible. The bill provides \$1 billion for state UI programs, and authorizes extended benefits beyond the typical maximum of 26 weeks, funded by the federal government. Here are some examples to help understand the new rules:

If an employer furloughs workers, they would be eligible for unemployment benefits, and would not have to wait a week as is now required. The state is also able under the bill to waive work search requirements, which Wisconsin has already done under Governor Evers' Emergency Order #7. If they are later called back to work and refuse, the work search exemptions no longer apply.

If a worker must stay home because they have symptoms of COVID-19 and are ordered home by a doctor or public health professional, or because the place of employment is not reachable, the worker is eligible for benefits so long as the intention is that they return to work at some point.

If an employer closes down because of a lack of business caused by COVID-19, the workers are eligible for benefits.

Paid Sick Leave

The law also requires private sector employers with under 500 workers to provide two weeks of paid sick leave, 80 hours for full-time workers, prorated for part time workers depending on a person's usual hours. The paid sick leave is available to any employee if they are unable to work on site or at home because:

- They are subject to government quarantine or isolation related to COVID-19 (NOTE: This applies only to individuals, not mass population orders like the Wisconsin "Safer at Home" order)
- Have been told to self-quarantine by a health care provider
- They have symptoms, or substantially similar symptoms, of COVID-19 and are seeking a diagnosis
- They are caring for a family member subject to quarantine
- They must stay home to care for their children because schools are closed or their caregiver is unavailable because of COVID-19

Rate of Paid Sick Leave. Under the bill, the paid sick leave must be the higher rate of their regular pay or federal minimum wage, but not to exceed \$511/day or \$5,110 for the duration. If however the absence is to care for a sick family member or a child home because schools are closed or their caregiver is unavailable, the paid sick leave rate under the bill is 2/3 their regular pay, not to exceed \$200/day or \$2,000 total.

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Exemptions. The bill also allows the Secretary of the Department of Labor to exempt health care providers and emergency responders from these mandates, and allows the Secretary to also exempt small businesses (fewer than 50 workers) from the requirement to offer leave to care for a child when school is closed if the paid sick leave would put the business operations in jeopardy.

Funding. Employers will receive a fully refundable tax credit for 100% of the sick leave wages paid by the employer. The credit will be applied against each quarter's Social Security taxes, and employers will be reimbursed if their expense exceeds their taxes owed. The Treasury Department is also authorized to waive penalties for things like failing to deposit taxes in anticipation of the credit, to help with cash flow for the employers. The tax credit is also increased under the bill to account for the cost employers have to continue to provide health insurance while a worker is on sick leave. Finally, paid sick leave benefits under the bill are not considered wages for Social Security tax purposes.

It's important to also keep in mind that these new requirements are in addition to sick leave policies an employer already has in place. The provisions end on December 31, 2020.

Here are some examples on the new paid leave provision:

One employee of a company with fewer than 500 workers has a family member diagnosed with coronavirus. The company would now be required to provide up to 80 hours paid sick leave at 2/3 the normal rate of pay, up to \$200/day, and will receive a refundable tax credit on their next quarterly filing to offset the cost as described above.

Another worker at the same facility is required to self-quarantine. That worker is eligible for paid sick leave up to \$511/day, and the employer will get reimbursed the same amount on their next quarterly tax filing.

Paid FMLA

Like the paid sick leave provision, the bill requires employers with fewer than 500 workers to provide up to 12 weeks of paid FMLA to workers who must stay home to care for a child now home because their school or daycare is closed due to COVID-19 and the worker is unable to work remotely. Like the paid sick leave, this provision sunsets on December 31, 2020.

Who is eligible? The paid FMLA program is for workers who have been employed at least 30 days, who must stay home to care for a child now home because their school or daycare is closed due to COVID-19, and the worker is unable to work remotely.

Rate of Paid FMLA. The first 10 days of FMLA leave may be unpaid, but the worker can elect to substitute other accrued leave, like vacation or personal, during this time. After 10 days, workers claiming paid FMLA receive 2/3rd their regular rate, not to exceed \$200/day or \$10,000 for the duration.

Small Business Exemptions. The DOL Secretary is authorized under the bill to exempt health care providers, emergency responders, and small businesses (fewer than 50) if the program would put the company at financial risk. Employers with fewer than 50 workers are exempt from civil actions for violations of the bill. Health care providers and emergency responders may exclude workers from paid FMLA.

Funding. The funding mechanism is the same as the paid sick leave requirement detailed above. Employers will receive a refundable tax credit for 100% of the benefits paid under this section, applied against quarterly Social Security taxes, capped at \$200/day and \$10,000 overall per worker. The Treasury Secretary is able under the bill to waive penalties for failing to deposit payroll taxes in anticipation of the credit to help employers with cash flow concerns. The tax credit is also increased to cover health plan expenses while a workers is on leave, and the paid FMLA wages are not considered wages for social Security tax purposes.

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