

**Summary  
Families First CoronaVirus Response Act**



**Effective April 2, 2020 Through December 31, 2020**

**Paid Sick Leave**

**Coverage:** Employers of fewer than 500 employees and all public entities

Effective immediately, each employee gets an **additional** 80 hours of paid sick leave to use for the following reasons:

1. The employee is subject to federal, state, or local quarantine or isolation order due to COVID-19;
2. The employee is advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. The employee is caring for a person who is subject to a government quarantine or self-quarantine advised by a health care provider;
5. The employee is caring for a child if the child's school or place of care has been closed or the child-care provider is not available due to COVID-29 precautions; or
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

**Pay:**

Employees must be paid at their regular rate of pay for reasons 1-3 above, except that pay cannot exceed \$511 per day and \$5,110 in the aggregate.

Employee must be paid 2/3 of their regular rate of pay for reasons 4-6 above, except that pay cannot exceed \$200 per day and \$2,000 in the aggregate.

**Tax Credit:**

Private Employers will be provided with quarterly tax credit against the employer's portion of Social Security taxes. We are unsure of public entities at this time.

<u>Covered Reason For Leave</u>	<u>Rate of Pay</u>	<u>Cap on Payments</u>

<p>(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19</p>	<p>The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (<a href="#">29 U.S.C. 207(e)</a>)).</p>	<p>\$511 per day and \$5,110 in the aggregate</p>
<p>(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19</p>	<p>The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (<a href="#">29 U.S.C. 207(e)</a>)).</p>	<p>\$511 per day and \$5,110 in the aggregate</p>
<p>(3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.</p>	<p>The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (<a href="#">29 U.S.C. 207(e)</a>)).</p>	<p>\$511 per day and \$5,110 in the aggregate</p>
<p>(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).</p>	<p>Two-thirds of the employee's regular rate of pay.</p>	<p>\$200 per day and \$2,000 in the aggregate</p>
<p>(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.</p>	<p>Two-thirds of the employee's regular rate of pay.</p>	<p>\$200 per day and \$2,000 in the aggregate</p>
<p>(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.</p>	<p>Two-thirds of the employee's regular rate of pay.</p>	<p>\$200 per day and \$2,000 in the aggregate</p>

## EMERGENCY FMLA:

**Coverage:** For COVID-19 related reasons, the current employee threshold for coverage is changed. It now applies to all employers with fewer than 500 employees.

**Eligibility:** Employees are eligible if they have been employed at least 30 days.

**Reasons for leave:** Inability to work (or telework) due to need to care for the employee's child under 18 years of age if their school or place of care has been closed due to a COVID-19 concern.

### **Paid Leave:**

- The first 10 days of emergency FMLA may be unpaid. Employee may **elect** to substitute vacation, personal leave or paid sick leave during this time.
- After the first 10 days, employer must pay as follows:
  - Full time employee at a rate no less than 2/3 of their regular rate of pay for the hours normally scheduled.
  - Part time employees at a rate based on average number of hours worked over a six-month period.
  - All aid leave is capped at \$200 a day and \$10,000 in the aggregate per individual.

### **Exemptions:**

The Secretary of Labor is authorized to exclude health care providers and emergency responders and to exempt certain small businesses with fewer than 50 employees from its requirements when they would jeopardize the viability of the business. No exemptions or exclusions have been issued yet.

### **Job Protection:**

Employer must return the employee to the same or equivalent position upon their return to work. Small employers with fewer than 25 employees are exempted if the position no longer exists due to economic conditions.

### **Tax Credit:**

Employers will be provided with quarterly tax credit against the employer's portion of Social Security taxes.

The Emergency Paid Sick Leave Act sets forth six covered reasons qualifying for paid sick leave, and a corresponding rate of pay for the employee and a cap on payments to the employees depending on the reason for leave:

Employers cannot require employees to use any other leave prior to using the Emergency Paid Sick Leave.

### **California Specific Changes**

Governor Newsom has signed Executive Order N-25-20.

Suspended some of the CalPers limitations of the retired annuitants. Any hours worked by a retired annuitant to ensure adequate staffing during the state of emergency will not count 960-hour fiscal hour limit. In addition, the 180-day waiting period is waived.

### **CDC Definition of At-Risk Employee**

<https://www.cdc.gov/coronavirus/2019-ncov/php/risk-assessment.html>