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## FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Passed Congress and Signed by President 3/18/2020

Effective Date: 4/2/2020 through 12/31/2020

### DIVISION C: Emergency Family and Medical Leave Expansion Act:

- ❖ **Applicable Employers:** any employer with fewer than 500 employees
  - **Secretary of the Department of Labor** has the authority to issue regulations that may exempt small businesses with fewer than 50 employees from this section when the imposition of such requirements would jeopardize the viability of the business as a going concern. We do not know what these regulations will entail or how a business with 50 or fewer employees would be granted an exemption.
  
- ❖ **Eligible Employee:** any employee who has been employed for at least 30 calendar days by the employer and has a Qualifying Need related to a the COVID 19 Public Health Emergency as follows:
  - Employee is unable to work (or telework) due to the need for leave **to care for their son or daughter under the age of 18 if the child's school or place of care is closed or the child care provider is unavailable** due to the COVID 19 public health emergency. Division C is specific to the closure of school/child care for the employee to stay home with their own children no other reason.
  
- ❖ **Unpaid and Paid Leave: 12 total weeks maximum between 4/2/2020 and 12/31/2020**
  - **The first 10 days (two weeks) of leave requested is UNPAID.** The employee may be allowed to use accrued PTO (sick, vacation, personal time) for this first 10 days or any part thereof, but CAN NOT be forced to use it.
  - **After the first 10 days (two weeks)** and up to 12 total weeks the employee would be entitled to 2/3 of their regular pay for weeks 3 through 12. Pay is calculated as 2/3 based on their regular rate of pay up to a maximum of \$200 per day or \$10,000 over the 12 weeks. FT employees base the calculation on the number of hours the employee would have normally worked for non-exempt employees and based on the weekly pay rate for exempt employees. PT employees or employees with varying weekly scheduled hours

would be calculated based on the average weekly hours over the previous 6 months or part thereof if the employee has not been employed for the full 6 months.

- ❖ **Employees who take Leave under Division C** are entitled to restoration to the same or equivalent position upon return from leave. The need for leave under this section ends when the employee's child(ren)'s school or child care center reopens or when the full 12 weeks is exhausted, whichever comes first.
  - **Employers with fewer than 25 employees** are not required to return the employees to the same or equivalent position if the following conditions are met:
    - The position held no longer exists due to economic conditions or other changes in operating conditions of the employer
    - The employer makes a reasonable effort to restore the employee to an equivalent position and if those reasonable efforts fail, the employer contacts the employee if an equivalent position becomes available within one year from when the COVID 19 Public Health Emergency ends or within one year from when the 12 weeks of leave began which ever is earlier.
  
- ❖ **Employer Payroll Tax Credit for Required Paid Family and Medical Leave**
  - A payroll tax credit equal to 100% will be applied against the employer's payroll taxes each quarter not to exceed \$200/day/employee and a total of \$10,000/employee for all quarters from 4/2/2020 through 12/31/2020.
  - If the amount of the tax credit claimed exceeds the payroll tax due, such excess shall be treated as an overpayment that shall be refunded.

#### **DIVISION E: Emergency Paid Sick Leave Act:**

- ❖ **Applicable Employers:** any private entity employer with fewer than 500 employees and in the case of a public agency or any other entity that is not a private entity or individual, employs 1 or more employees
  - **Secretary of the Department of Labor** has the authority to issue regulations that may exempt small businesses with fewer than 50 employees from this section when the imposition of such requirements would jeopardize the viability of the business as a going concern. We do not know what these regulations will entail or how a business with 50 or fewer employees would be granted an exemption.

❖ **Eligible Employee:** any employee and is available for immediate use by the employee regardless of how long the employee has been employed for a qualifying purpose:

- Group One:**
1. The EMPLOYEE is subject to a Federal, State, or local quarantine or isolation order related to COVID 19
  2. The EMPLOYEE has been 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 is seeking a medical diagnosis

- Group Two:**
4. The EMPLOYEE is caring for an individual who is subject to a Federal, State or Local quarantine or isolation order or is self-quarantining as recommended by a health care provider
  5. The EMPLOYEE is caring for a son or daughter related to the closure of the child's school or child care provider or if the child care provider is unavailable due to COVID 19 precautions. (This last section could apply to a child being denied care due to screening measures the child care provider has put in place).
  6. The EMPLOYEE is experiencing any other substantially similar condition specified by the Secretaries of HHS, Treasury and Labor. (This last section could include an employee that is sent home from work due to screening measures at your center),

❖ **Paid Sick Leave: 2 weeks maximum between 4/2/2020 and 12/31/2020**

- The Amount of Hours of paid sick leave to which the employee is entitled is:
  - Full Time Employees: 80 hours at their regular rate of pay
  - Part Time Employees: a number of hours equal to the number of hours the PT employee works on average over a 2 week period at their regular rate of pay
- For Leave related to GROUP ONE (1, 2, 3) above the maximum daily limit for each employee is \$511 (\$5110 over 10 days)
- For Leave related to GROUP TWO (4, 5, 6) above the maximum daily limit for each employee is \$200 (\$2000 over 10 days)
- The employer MAY NOT require the use of other paid leave provided by the employer BEFORE the employee uses the Paid Sick Leave under this section.

❖ **Employer Payroll Tax Credit for Required Paid Family and Medical Leave**

- A payroll tax credit equal to 100% will be applied against the employer's payroll taxes not to exceed \$5110 per employee for GROUP ONE (1, 2, 3) reasons and \$2000 per employee for GROUP TWO (4, 5, 6) reasons from 4/2/2020 through 12/31/2020.