Families First Coronavirus Response Act (FFCRA) – Effective April 1, 2020
Agenda

- FFCRA Overview
- Mandatory Posting
- Emergency Paid Sick Leave
- Emergency Paid Family Medical Leave (and expansion)
- Small Business Exceptions
- Documentation
- Tax Credits
- Questions?
This presentation is for informational purposes only from the perspective of a professional human resources practitioner.

The information shared does not constitute legal advice and if you would like advice related to the legal application of this Act related to your business environment you are strongly advised to reach out to your legal counsel.
Families First Coronavirus Response Act

Overview
Families First Coronavirus Response Act Overview
H.R. 6201

• Introduced by the House on March 11, 2020
• Passed by the House on March 14, 2020
  • Multiple versions were circulated, no hearings occurred and no legislative history, so no guidance through committee reports existed regarding the bill
• “Technical corrections” were issued on March 16, 2020, by the House
• Passed by the Senate on March 18, 2020, without changes
• Signed by the President on March 18, 2020
• Effective April 1, 2020
• Speaker Pelosi introduced legislation during the Senate debate on the economic relief package which included significant changes; however, they were not adopted
• Instead, the Senate passed H.R. 748 “Coronavirus Aid, Relief, and Economic Security Act” or CARES on March 25, 2020
• DOL was accepting comments and suggestions through their online portal through March 29, 2020; however, now extended to April 10, 2020
  • Portal Link - https://ffcra.ideascale.com
Families First Coronavirus Response Act Highlights

- Paid Sick Leave (PSL)
- Paid Family Medical Leave (PFML)
- Job protections
- Tax credits for PSL and PFML
- Medical plan components (COVID-19 testing costs)
- Mandates of the Act
  - Limited period – April 1, 2020 to December 31, 2020
  - Only applies to employers with <500 employees
  - PSL broader than PFML
  - Tax credits will offset costs to covered employers
Families First Coronavirus Response Act Highlights

**PAID SICK LEAVE**
Two weeks up to 80 hours

**PAID FAMILY LEAVE**
Up to an additional 10 weeks

**EMPLOYER TAX CREDITS**
Employers qualify for dollar-for-dollar reimbursement for all qualifying wages and health insurance paid under the act

**JOB PROTECTION**
Employers may not discharge, discipline, or otherwise discriminate against any employee who takes paid sick leave under the act
Families First Coronavirus Response Act

Mandatory Posting

Steel Founders’ Society of America

Non-Ferrous Founders’ Society
Mandatory Posting

- Posted no later than April 1, 2020
- Posted in a conspicuous area where employees regularly gather
- Could mean you need to post in multiple locations...
- Remote employees should have a copy emailed to them
Families First Coronavirus Response Act

Paid Sick Leave (PSL)

Steel Founders' Society of America
Emergency Paid Sick Leave (PSL)

• **Employer Coverage** – Does *not* apply to employers that employ 500 or more employees
• Potential regulatory exemption for small employers regarding certain covered reasons for use

• **Employee Eligibility** – “Employee” generally means *any* individual employed by an employer. Includes full time *and* part time and is broader than PFML.
• Eligible **immediately** – no wait to use PSL
• NO CBA exemption
Emergency Paid Sick Leave (PSL)

• **Six Qualifying Conditions** – Employee is *unable to work or telework* because he or she:

1. Is subject to a governmental *quarantine or isolation order* related to COVID-19
2. Has been advised by a health care provider to *self-quarantine* due to COVID-19 concerns
3. Is experiencing *symptoms* of COVID-19 *and seeking diagnosis*
4. Is *caring for an individual* subject to a governmental quarantine/isolation order or health care provider recommendation
   • Does *not* need to be a family member
5. The employee is caring for an eligible “son or daughter” under age 18 if school or place of care has been closed due to COVID-19 precautions
6. The employee is experiencing “*substantially similar condition*” specified by HHS Secretary
Emergency Paid Sick Leave (PSL)

- Full Time Employees receive 80 hours of pay
- Part Time Employees receive a prorated amount based on average number of hours over two weeks
- Pay is set at *highest* of:
  - Employee’s “regular rate” under FLSA; or
  - Federal minimum wage rate; or,
  - State or local minimum wage rate; *unless*...
    - *Absence is for reasons 4, 5, or 6 (on previous slide)* = only 2/3 of pay
Emergency Paid Sick Leave (PSL)

Pay Caps

• **$511 per day for a total of $5,110 for:**
  1. Is subject to a governmental *quarantine or isolation order* related to COVID-19
  2. Has been advised by a health care provider to *self-quarantine* due to COVID-19 concerns
  3. Is experiencing *symptoms* of COVID-19 *and seeking diagnosis*

• **$200 per day for a total of $2,000 max of 2/3 of pay for:**
  4. Is *caring for an individual* subject to a governmental quarantine/isolation order or health care provider recommendation
     • Does *not* need to be a family member
  5. The employee is caring for an eligible “son or daughter” under age 18 if school or place of care has been closed due to COVID-19 precautions
  6. The employee is experiencing “*substantially similar condition*” by HHS Secretary
Emergency Paid Sick Leave (PSL)

- *Cannot* require use of company-provided paid time off before an employee uses PSL under the Act.
- No year end carry over.
- No payout on termination or separation.
- *Cannot* require employees to find replacements.
- Anti-discrimination, discipline, and discharge provision applies; however, limited in scope.
Families First Coronavirus Response Act

Paid Family Medical Leave (PFML)
Paid Family & Medical Leave (PFML)

- **Expands the FMLA** – Adds a new qualifying absence to the FMLA for “public health emergency leave” which is paid
  - Scope of what absences are covered is limited
  - FMLA and PFML do not extend total allowed time off beyond 12 weeks in a 12-month period
- **Employer Coverage** – Does not apply to employers that employ 500 or more employees
  - Potential regulatory exemption for small employers regarding certain covered reasons for use
Paid Family & Medical Leave (PFML)

• **Employee Eligibility** – An employee who has worked for a covered employer *for at least 30 calendar days*
  • Standard is *not* regular FMLA criteria
  • CARES Act modifies FFCRA to provide that employees who were “laid off” by an employer on or after March 1, 2020, may qualify for PFML if they are later rehired by the same employer
Paid Family & Medical Leave (PFML)

- Consists of both paid and unpaid portions
  - Employers must provide **paid leave** **AFTER** 10 days of unpaid leave
  - Employee may choose to substitute other leave benefits during initial period; **OR**,
  - Employee may receive PSL under the Act during this period
  - After 10-day period, employee may receive **up to 10 weeks** of leave
  - Pay is not less than \( \frac{2}{3} \) of “regular rate” under the FLSA multiplied by the number of hours normally scheduled; **however,**
  - Pay is capped at $200 per day and $10,000 total for the ten weeks
  - **ONLY** applies to leave for caring for an eligible “son or daughter” under age 18 if school or place of care has been closed due to COVID-19 precautions
Paid Family & Medical Leave (PFML)

• Employees must provide advanced notice of foreseeable leave as soon as practicable

• Reinstatement rights as with FMLA
  • Potential exception exists for employers with less than 25 employees, if there are negative business or operational changes

• No CBA exemptions

• Intermittent leave is only permitted when employer gives permission

• Eligible for quarterly tax credits to offset employer payments
Families First Coronavirus Response Act

Other Requirements
Other important things to know!

• **Small Business Exceptions** – Applies to employers with <50 employees
  • High level is “when the imposition of such requirements would jeopardize the viability of the business as an ongoing concern”
  • DOL Questions and Answers page specifically addresses how this can apply:
    https://www.dol.gov/agencies/whd/pandemic/ffcra-questions
Other important things to know!

• For consistency and your own protection have a practice or policy for leave requests

• Create a form for use of leave so all employees experience the same process
  • Care for Son or Daughter Form
  • Emergency Paid Sick Leave Form

• This form is also a critical documentation to receiving tax credits (in addition to other documentation)

• Tax credits are 100% of the amount paid for PSL or PFML, including a portion of costs of group health costs
LEAVE REQUEST FOR EMERGENCY PAID SICK LEAVE DURING COVID-19 PANDEMIC

Employee Name: ____________________________________________

First ______________________ Middle ______________________ Last ______________________

Requested leave – Start Date: ______________________ End Date: ______________________

I cannot work, including telework, because:

□ I am subject to a Federal, State or Local “quarantine” or “isolation” order.
Name of governmental entity ordering quarantine and/or isolation:
________________________________________________________

□ My healthcare provider has advised me to “self-quarantine” due to COVID-19.
Name of health care professional advising self-quarantine:
________________________________________________________

□ I am experiencing symptoms of COVID-19 and I am seeking a medical diagnosis.
List symptoms: __________________________________________
Provider’s name: ________________________________________
Describe efforts to seek diagnosis: __________________________________________

□ I am caring for an individual who either:

□ has been advised by healthcare provider to self-quarantine due to concerns related to COVID-19; or,

□ is subject to a government quarantine or isolation order.
Name of individual, and your relationship:
________________________________________________________

I certify that the information I am providing on this form is true and complete. Falsification or omission of information may lead to discipline, including termination.

Employee Signature __________________________________________ Data ______________

For Human Resources

Approved leave dates: ________________________________________
Total qualified sick leave/expanded FMLA time: ______________________
Qualified sick leave/expanded FMLA wages paid per day or week: ______________________
Total wages paid for qualified sick leave/expanded FMLA: ______________________
Qualified health plan expenses allocated to wages: ______________________
Total amount paid: ______________________
LEAVE REQUEST TO CARE FOR SON OR DAUGHTER DURING COVID-19 PANDEMIC

Employee Name: ____________________________________________
First  Middle  Last

Requested Leave - Start Date: ____________________________ End Date: ____________________________

Names and Dates of Birth of Son(s) or Daughter(s) in Your Care:
____________________________________________________________________________________

I cannot work (or telework) for all the following reasons (please initial each statement):

____ I cannot work (including telework) because I need to provide care for my son and/or daughter.

____ No other person will be providing care for the child(ren) during the time period I am requesting leave.

____ No other suitable person is available to provide care for the child(ren) during the leave period.

____ School closed.

Name of school ____________________________________________

____ Place of childcare closed.

Name of place of care _________________________________________

____ Childcare provider not available.

Name of provider ___________________________________________

If I am requesting leave because of a need to provide care for a child older than fourteen years old, during daylight hours, these are the special circumstances that require me to provide care for the child:
____________________________________________________________________________________

I certify that the information I am providing on this Leave Request is true and complete. Fabrication or omission of information may lead to discipline, including termination.

Employee’s Signature ____________________________________________ Date

For Human Resources

Approved leave dates: _________________________________________

Total qualified sick leave/expanded FMLA time: ____________________________

Qualified sick leave/expanded FMLA wages paid per day or week: ____________________________

Total wages paid for qualified sick leave/expanded FMLA: ____________________________

Qualified health plan expenses allocated to wages: ____________________________

Total amount paid: _____________________________________________

 SAMPLE

Steel Founders’ Society of America

NON-FERROUS FOUNDERS’ SOCIETY
Other important things to know!

- Paid leave requirements are **not** retroactive to April 1, 2020, if someone was out prior to this date. If you choose to pay someone for COVID-19 related absences prior to this date, you **will not** receive federal tax credit for any date prior to April 1, 2020.

- Employees who were laid off for other reasons prior to requesting PSL or PFML are not eligible for either benefit.

- If a worksite closes or would otherwise have made a layoff decision after someone starts PSL or PFML, an employee is not entitled to continued payments and would transition to unemployment.
Resources

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

https://www.dol.gov/coronavirus


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Questions?
Thank You

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