

Subject:
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Newsletter / Marketing: [Extensis HR Alert] Families First Coronavirus Response Act
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IMPORTANT: [HR 6201](#) was signed by President Trump on March 18, 2020

HR 6201, also known as the Families First Coronavirus Response Act, has passed the Senate and been signed by the President.

Summary

Employees are eligible for two weeks of sick leave (full pay for self, 2/3 pay for family care) and use of 12 weeks of Family and Medical Leave Act (FMLA) leave (10 days unpaid and then up to 10 weeks at 2/3 pay) for several circumstances related to COVID-19.

Effective Date of Law

- Legislation indicates that it would be effective not more than 15 days after enacted, April 2nd, and would expire December 31, 2020.

Key Elements for Employers

- Emergency FMLA Expansion for Employees
- Emergency Paid Sick Leave for Employees
- Payroll Tax Credit for Employers

Emergency FMLA Expansion for Employees

- **Covered Employers:** Employers with fewer than 500 employees are covered.
- **Covered Employees:** Any employee who has been employed for at least 30 calendar days, though employers can choose to exclude employees who are health care providers or emergency responders.
- **Covered Leave Purposes:** To care for a child under 18 of an employee if the child's school or place of care has been closed, or the childcare provider is unavailable, due to a public health emergency, defined as an emergency with respect to the coronavirus declared by a federal, state, or local authority.

Duration:

- Up to 12 weeks of job-protected leave.

Compensation:

- No pay for first 10 days of leave (employee can, but is not required, to use any other leave available to them, including the emergency sick leave discussed below). Employers may not require employees to use paid leave during this period.
- After 10 days, employers must pay two thirds of the employee's regular rate of pay for the number of hours they would normally be scheduled to work, capped at \$200/day and \$10,000 total.

Reinstatement to Position after Leave:

- The same reinstatement provisions apply under the traditional FMLA. However, restoration to position does not apply to employers with **fewer than 25 employees** if certain conditions are met:
 - The job no longer exists because of changes affecting employment caused by an economic downturn or other operating conditions caused by a public health emergency, subject to the following conditions:
 - The employer makes reasonable efforts to return the employee to an equivalent position, and
 - The employer makes efforts to contact a displaced employee if anything comes up within a year of when they would have returned to work.

Emergency Paid Sick Leave for Employees

- **Covered Employers:** Employers with fewer than 500 employees.
- **Covered Employees:** All employees (no matter how long they have been employed). Employees who are health care providers or emergency responders may be excluded.
- **Covered Leave Purposes:**
 1. When quarantined or isolated subject to federal, state, or local quarantine/isolation order;
 2. When advised by a health care provider to self-quarantine (due to concerns related to COVID-19);
 3. When experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 4. When caring for an individual who is included in circumstances listed in #1 and #2 (2/3 pay);
 5. When caring for a child whose school or place of care is closed due to COVID-19 (2/3 pay); or
 6. When the employee is experiencing any other substantially similar condition (2/3 pay).

Duration of Leave:

- Full time employees are entitled to 80 hours of paid sick leave.
- Part time employees are entitled to sick leave equal to the amount of hours worked on average over a typical two-week period.

Rate of Pay:

- Sick leave must be paid at the employee's regular rate of pay for leave used for the employee's own illness, quarantine, or care.
- Sick leave must be paid at two-thirds of the employee's regular rate if taken to care for a family member or to care for a child whose school has closed, or if the employee's childcare provider is unavailable due to the Coronavirus.
- Pay is capped at \$511/day and \$5,110 total for reasons 1, 2, and 3 described above.
- Pay is capped at \$200/day and \$2,000 total for reasons 4, 5, and 6 described above.

Interaction with Other Employer-Provided Paid Sick Leave and other Paid Leave:

- This bill does not pre-empt existing state and local paid sick leave requirements.
- Employers cannot require employees to use other leave first.
- Sick leave provided for under the bill does not carry over from year to year, and the requirements expire December 31, 2020.

Notice Requirements:

- Employers must post a model notice to be provided by the federal government.

Note: The bill reserves the right for the Secretary to exclude certain care providers and first responders from the list of "eligible employees" and exempt small businesses with fewer than 50 employees if business viability was jeopardized.

Payroll Tax Credit for Employers

Under the Family First Act (H.R. 6201), employers can claim a refundable tax credit to offset the incremental cost of providing expanded FMLA and emergency paid "sick" leave to their employees.

- These refundable tax credits are taken against the employer portion of Social Security taxes for the calendar quarter in which wages are paid under these programs.
 - If the credit exceeds the employers accumulated Social Security tax for the calendar quarter, the excess will be issued in the form of a refund from the IRS.
- The amount of refundable tax credit is based on the type of leave.
- The refundable credits would apply to all wages paid under these programs between the date the specified by the Secretary of Treasury (must be within 15 days of the bill be enacted) and 12/31/2020.

Tax Credit for Expanded FMLA Leave

- An employer can claim 100% of the "qualified family leave wages that they are required to pay for the calendar quarter.
- The amount of the credit is \$200 per day for each employee paid.
- The maximum annual credit per employee is \$10,000.

Tax Credit for Emergency Paid “Sick” Leave

- An employer can claim 100% of “qualified sick leave wages” that they are required to pay for a given calendar quarter.
- The amount of the credit will vary based on the reason for the leave and is limited to 80 hours (10 working days) for full time employees and two-weeks average hours for a part time employee.
- Employee Using Emergency Paid Sick for their self:
 - The Refundable Tax Credit for an employee who is self-isolated in the lesser of their regular daily pay for 8 hours or \$511.
 - The max credit to be taken for an employee under self-isolation is \$5,110.
- Employee using Emergency Paid “Sick” Leave for family:
 - The Refundable Tax Credit is the lesser of their regular daily pay for 8 hours or \$200.
 - The max credit to be taken for an employee that is caring for a family member is \$2,000.
- An employer can claim additional refundable tax credits for the following items if they can be directly linked to the Emergency Paid “Sick” Leave payments to employees:
 - Employer portion of Medicare taxes.
 - The nontaxable health insurance premiums paid by the employer for employees.

The Extensis Solution - At Extensis we are working to simplify your experience in navigating these legislative changes. Our teams are reviewing all changes in legislation to determine the impact to our clients. Our goal is to simplify our processes so that you and your employees have the resources to participate in the programs outlined above. We will be sharing more details with you in the upcoming days.

If you have any questions, please contact your dedicated HR Professional or hr@extensigroup.com.

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