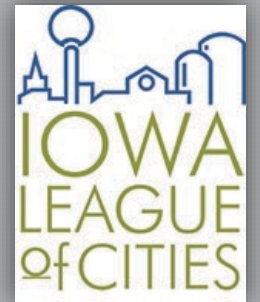




Families First Coronavirus Response Act (FFCRA) and Unemployment Insurance: HR and Payroll Questions



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FFCRA

Effective April 1, 2020 – December 31, 2020

Mandatory no-cost sharing paid leave/benefits – related to COVID-19 or SARS (includes public employers)

<500 employee requirement – does NOT apply to public employers

Two Definitions of Paid Leave

Emergency Paid Sick Leave

Day 1 of employment

Two weeks paid time

- Full-time - up to 80 hours paid time
- Part-time - average number of hours worked

6 qualifications

#1-3 100% pay \$511 daily limit/\$5,110 total limit

#4-6 2/3 rate of pay

\$200 daily limit/\$12,000 total limit

Full-time = regularly scheduled 40 hrs./ week

Part-time = less than 40 hours

Expanded FMLA

After 30 days of employment

*12 weeks paid leave

- Full-time - up to 80 hours paid time
- Part-time - average number of hours worked

1 qualification

First 10 days – unpaid leave

10+ days 2/3 rate of pay

\$200 daily limit/\$10,000 total limit

Based on number of hours normally worked.

*Includes all FMLA covered leave

Emergency Paid Sick Leave

100% pay

\$511 daily limit/\$5,110 total limit

(1) Employee is quarantined per federal, state or local authority

(2) Employee advised to self-quarantine per health care provider

(3) Employee has symptoms of COVID-19 and seeks medical diagnosis.

2/3 rate of pay

\$200 daily limit/\$12,000 total limit

(4) Employee is caring for an individual who is subject to (1) or (2).

(5) Employee is caring for a son or daughter due to closed school or child care.

(6) Employee is experiencing similar symptoms of COVID - 19

Expanded FMLA

Employee is caring for a son or daughter due to closed school or child care.

Exclusions - Health Care Provider

Any employees at:

- Doctor's office, hospital, health care center or clinic
- Post-secondary educational institution offering health care instruction, medical school
- Local health department or agency
- Nursing facility, retirement facility, nursing home, home health care provider
- Any facility that performs laboratory or medical testing, pharmacy or any similar institution

EFMLA: Section 3105

Paid Sick Leave: Section 5102(a)

29 C.F.R. 826.30(c)

Exclusions – Emergency Responder

- Military (National Guard), law enforcement officers, correctional institution personnel
- Fire fighters, emergency medical services personnel, emergency medical technicians, paramedics
- Emergency management personnel, 911 operators
- Child welfare workers and service providers
- Public works personnel
- Persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency
- Individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility

EFMLA: Section 3105

Paid Sick Leave: Section 5102(a)

29 C.F.R. 826.30(c)

Unable to Work

Written request including:

1. Employees name
2. Date or dates for requested leave
3. Statement of COVID-19 related reason the employee is requesting leave include written support
4. Statement why employee is unable to work/telework

Unable to Work

(including telework)

Explanation	Verification Needed
1. The employee is under a federal, state, or local quarantine or isolation order related to COVID-19	1. Name of the government agency requiring the quarantine/isolation
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19	2. Name of Medical Provider, Medical Certification - Form WH-380-E
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis	3. Medical Certification - Form WH-380-E
4. The employee is caring for an individual who is subject to: (#1 subject to a quarantine or isolation order) (#2 advised to self-quarantine)	4. Name of individual and relation to Employee, Name of the government agency (#1), Name of Medical Provider (#2), Medical Certification - Form WH-380-E (#2)

Unable to Work

(including telework)

Explanation	Verification Needed
5. The employee is caring for the child if the school or place of care, has been closed, or unavailable, due to COVID–19 precautions	5. Name and age of Child (Children), Name of school or place of care that closed, Representation no other person will be providing care for the child (children)
6. Employee is experiencing similar symptoms of COVID – 19 (Nothing has been currently identified by U.S. Department of Health and Human Services (HHS))	6. Medical Certification - Form WH-380-E

Required Posting

Employers must provide the [notice](#) to all employees

- Post in physical location where other notices are posted
- Email, direct mail or post in company intranet for staff working remotely
- Failure to post could result in a fine

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

► PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅓ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- | | |
|---|---|
| 1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; | 5. Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or |
| 2. Has been advised by a health care provider to self-quarantine related to COVID-19; | 6. Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
| 3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis; | |
| 4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | |

► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



WH1422 REV 03/20

Intermittent Leave

Employer and employee must both agree to the terms/schedule

Employees still physically working at the workplace

- Can only be used to care for a child whose school or daycare is closed
- All other reasons, paid time off must be used in consecutively

Employees who are able to telework/work remotely

- Can be used for any qualifying reason

Tracking Time and Payroll

Document the amount of paid sick leave and expanded FMLA wages paid to employee – separate pay codes for

- Work/telework (productive work)
- Qualified sick leave
- Qualified FMLA leave

Document the amount of qualified health plan expenses allocated to wages

Copies of all required forms and documentation from the employee

Employee Rights

- Employers cannot deny qualified employees FFCRA paid leave
- Employers cannot force an employee to use other paid or unpaid leave prior to using FFCRA paid leave
- Employees can supplement FFCRA leave with their own banked leave if the employee and employer agree to it (cannot be required by either)

Grace Period

30 day non-enforcement period expires April 17, 2020

No enforcement of violations if employer

- has made reasonable, good faith efforts to comply with the Act
- has not willfully violated the Act
- has provide a written commitment to future compliance with the Act
- remedies a violation upon notification of the Department of Labor

Enforcement

Failure to comply with the law could result in

- Lost wage benefits
- Liquidated damages
- Attorney fees/court costs
- Complaint filed with the Department of Labor (DOL)
- Private action taken
- Individual liability

Shelter in Place – Who is essential?



FFCRA

Employer has work but employee is unable to work or telework

Unemployment

Employer closes worksite
Employee is furloughed but employer remains open
Self – isolation without medical direction

Unemployment Insurance

Modifications to Existing Unemployment

Work searches waived

COVID-19 related claims not charged to employers

COVID-19 fact-finding interview waived

Partial Scheduling Options

Furloughed

Reduced work hours

Shared workforces

Shift in work

Questions?

1. What is the difference between an essential employee and an emergency responder?
2. How do we pay an employee who is off for child care for a part-time situation (shared custody)?
3. What happens if an employer wants to pay staff that are off due to no work, in lieu of unemployment? Can it be done for a less essential department and while essential employees still have to work?

Other Questions?