

FAMILIES FIRST CORONAVIRUS RESPONSE ACT: WHAT BUSINESSES NEED TO KNOW

Presented by:

Michelle Anderson, Esq.

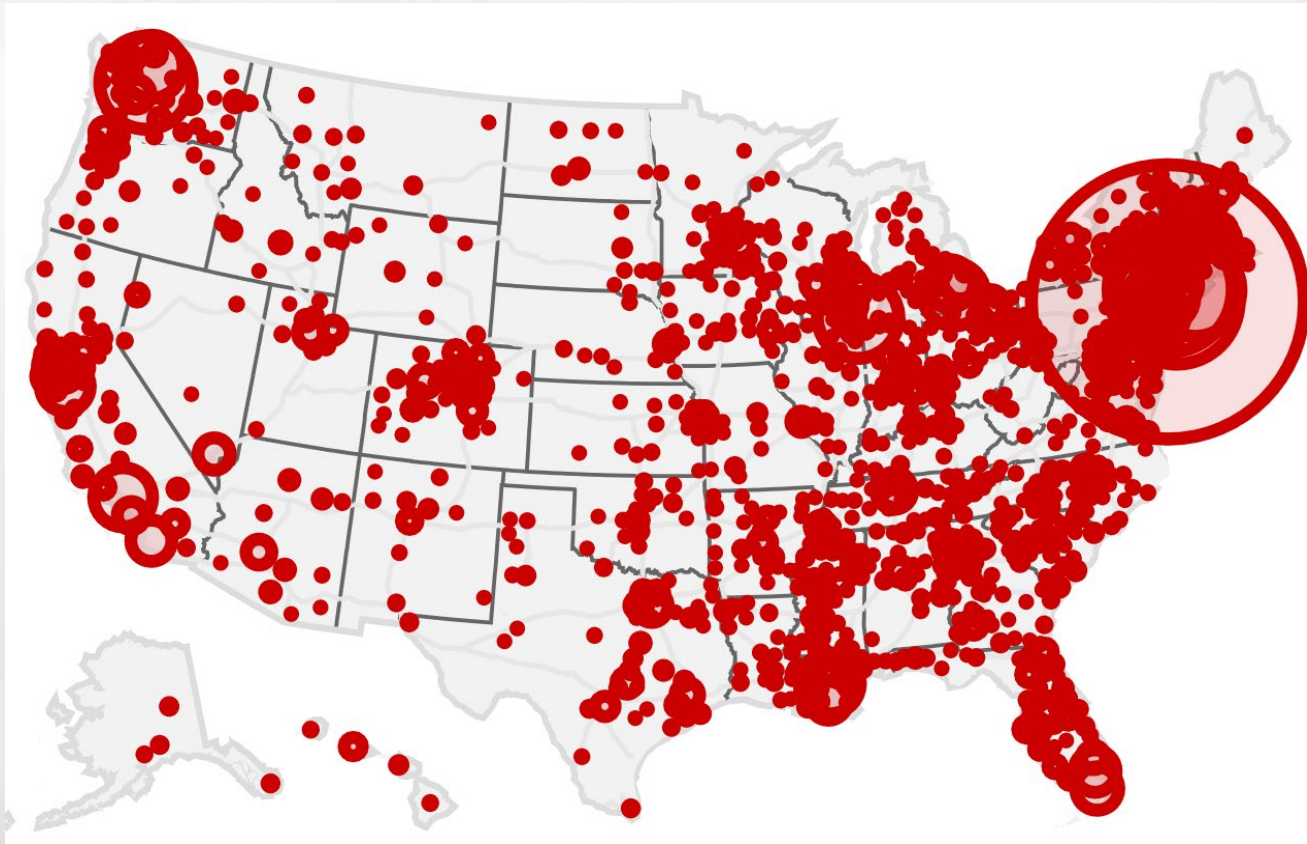
manderson@fisherphillips.com

504-529-3839

Fisher & Phillips LLP

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What's New Today?



FAMILIES FIRST CORONAVIRUS RESPONSE ACT

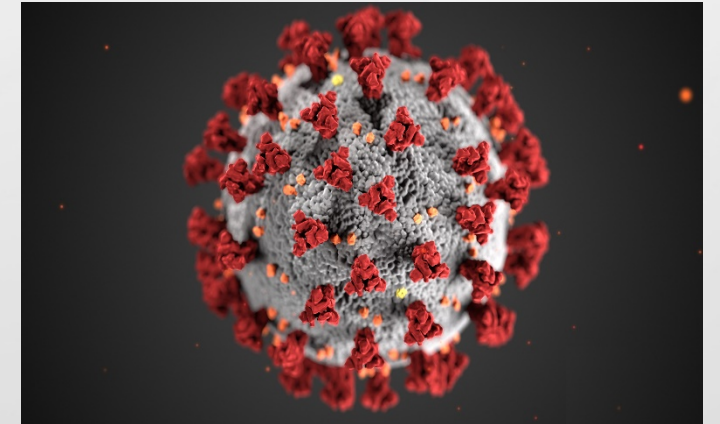
- Law goes into effect on April 1, 2020 and expires December 31, 2020
 - This effective date of the law was a major announcement made by the United States Department of Labor, Wage and Hour Division, on the afternoon of March 24, 2020. Until that publication, it was generally thought that the law would be effective on April 2, 2020. This is important for planning purposes, particularly if you are considering a reduction of your work force prior to the law going into effect.
- Paid Leave for Coronavirus-Related Reasons
 - “Bucket 1” – Emergency Paid Sick Leave for up to 80 hours
 - “Bucket 2” – Emergency Family and Medical Leave Act for up to 12 weeks
- Emergency Unemployment Insurance Stabilization And Access Act of 2020
 - “Bucket 3” – Unemployment Insurance Funding
- Reimbursement to Employers as Tax Credits in quarterly tax returns
- Applies to employers with “fewer than 500 employees.”

EMERGENCY PAID SICK LEAVE

“BUCKET 1”

EMERGENCY PAID SICK LEAVE Overview

- **Any employee who works for the employer and who is on the payroll on April 1st is eligible.**
 - No minimum days/hours of employment
- **If the employee qualifies for this leave, the employee is entitled to:**
 - Full-time Employees – 80 hours of paid sick leave
 - Part-time Employees – Paid based on the average number of hours the employee worked for the six months prior to taking this paid sick leave
 - Or, if employed for less than 6 months, the average number of hours per week the employee would normally be scheduled

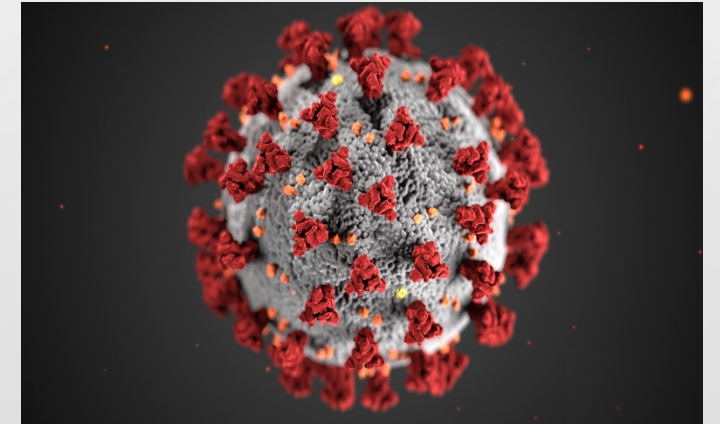


EMERGENCY PAID SICK LEAVE

Qualifying Reasons

Must provide paid sick leave “to the extent the employee is unable to work (or telework) due to a need for leave” because:

- (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 seeking a medical diagnosis.
- (4) The employee is caring for an **individual** who is subject to an order or self-quarantine as described above.
- (5) The employee is caring for a son or daughter if school or child care is closed/unavailable.
- (6) The employee is experiencing “any other substantially similar condition” specified by HHS (catch all).

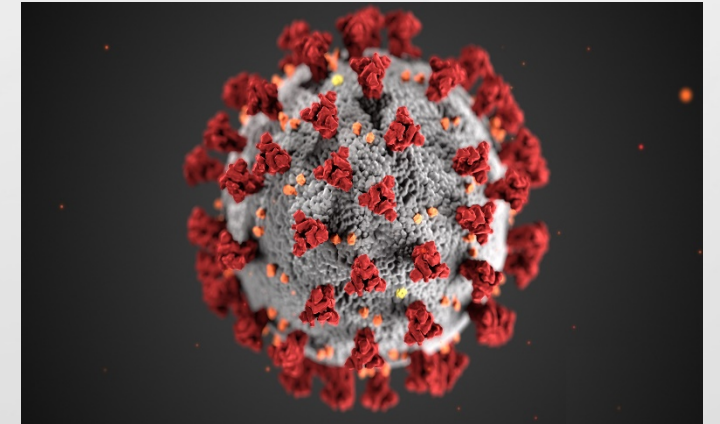


“STAY AT HOME” ORDERS AND PROCLAMATIONS

- Many states and local jurisdictions are issuing “shelter at home orders,” requiring everything and everyone to stay at home except for essential businesses and essential employees of those businesses. These shelter at home orders vary by jurisdiction.
- However, non-essential employees who cannot work from home and who are on your payroll on April 1st will be eligible for up to 80 hours of the emergency paid sick leave because they have been ordered into isolation (qualifying event #1 for the paid sick leave). Also, the daily cap is \$511 per day or \$5,110 in the aggregate per employee.

EMERGENCY PAID SICK LEAVE

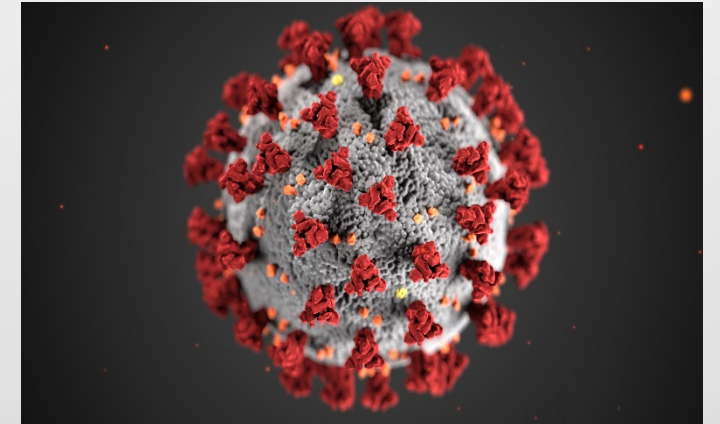
- **At employee's regular rate for qualifying reasons (1), (2) or (3)**
 - Compensated at HIGHER of their regular rate, federal minimum wage or local minimum wage
- **At 2/3 the employee's regular rate for qualifying reasons (4), (5) or (6)**
- **Capped at the following levels:**
 - \$511 per day and \$5,110 in the aggregate per person for qualifying reasons (1), (2) and (3).
 - \$200 per day and \$2,000 in the aggregate per person for qualifying reasons (4), (5) and (6).



EMERGENCY PAID SICK LEAVE

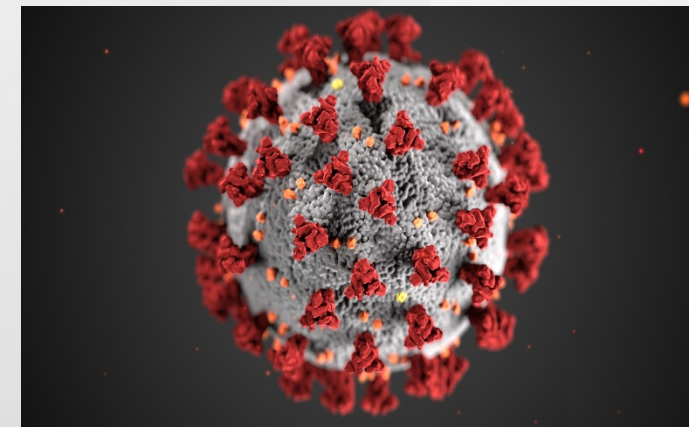
Additional General Rules

- Sick leave does not carry over to 2021.
- Employer may not require employee, as a condition of paid leave, to find a replacement to cover scheduled hours.
- Employer may not require employee to use other paid leave provided by the employer before using this emergency paid sick leave.



EMERGENCY PAID SICK LEAVE Tax Credits

- Employers subject to the requirements are entitled to a refundable tax credit equal to the amount of the qualified paid sick leave requirements paid by the employer per quarter.
- The tax credits for qualified paid sick leave wages are capped at
 - \$511 per day per person for qualifying reasons (1), (2) and (3).
 - \$200 per day per person for qualifying reasons (4), (5) and (6).



GUIDANCE FROM IRS ON TAX CREDIT

MARCH 20, 2020

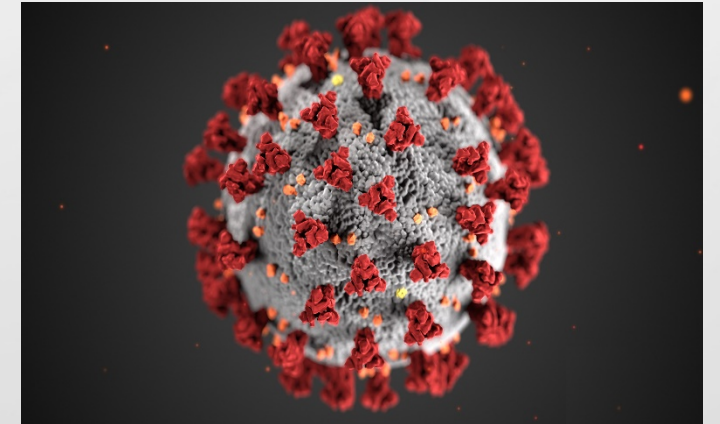
- Eligible employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit them with the IRS.
- The payroll taxes that are available for retention include withheld federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes with respect to all employees.
- If there are not sufficient payroll taxes to cover the cost of qualified sick and child care leave paid, employers will be able file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced next week.

EMERGENCY FAMILY AND MEDICAL LEAVE

“BUCKET 2”

EMERGENCY FAMILY AND MEDICAL LEAVE ACT - EFMLA

- Significantly expands FMLA on a temporary basis.
- Any employee who worked for employer for 30 days prior to leave and qualifies is eligible (no requirement of 12 months/1250 hours)
- Provides up to 12 weeks of paid, job-protected leave (paid after the first 10 days)

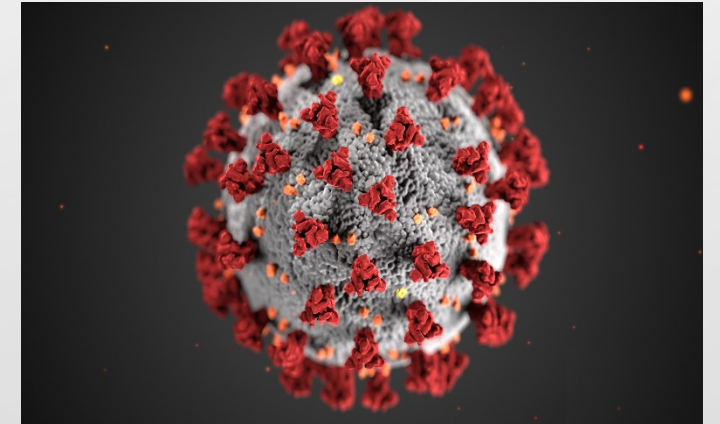


EMERGENCY FAMILY AND MEDICAL LEAVE ACT

Only One Qualifying Reason

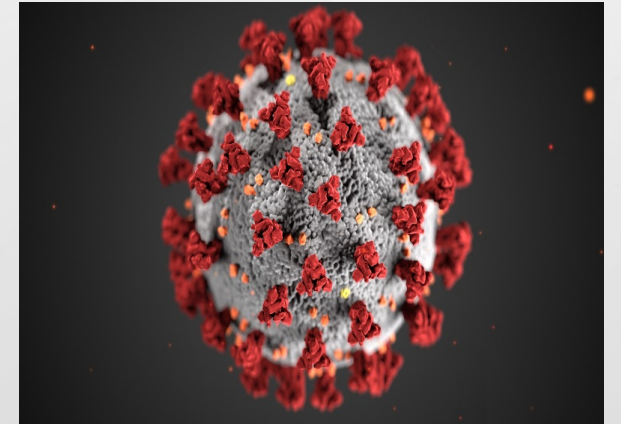
12 weeks of job protected leave when:

- “The employee is unable to work (or telework) due to the need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.”
- Regular FMLA definition of “son or daughter” applies.
- The 80 hours of paid sick leave and the E-FMLA are read in conjunction. An employee is not entitled to more than 12 weeks.



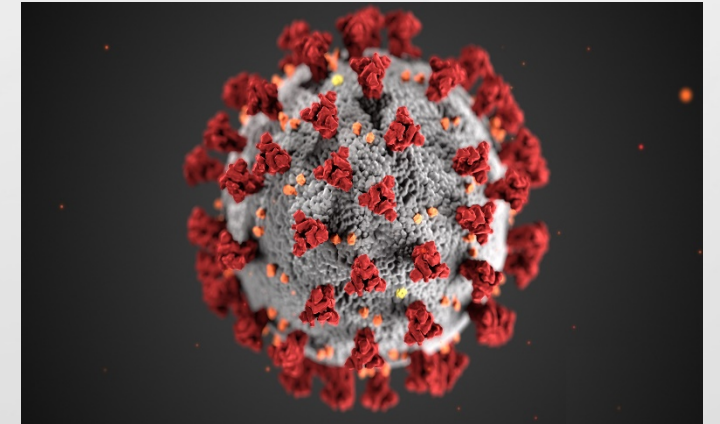
EMERGENCY FAMILY AND MEDICAL LEAVE ACT How Does it Work?

- **First 10 days of EFMLA may be unpaid:**
 - An employee may elect to substitute accrued PTO, vacation, or sick leave to cover any portion of first 10 days.
 - An employee who qualifies for 80 hours of emergency sick leave can use this emergency sick leave as the first 80 hours of EFMLA.
 - Employer cannot require an employee to substitute such leave.
- **After the first 10 days:**
 - Compensated at 2/3 of the employee's regular rate.
 - Part-time employees/irregular schedule entitled to be paid based on average number of hours employee worked in prior 6 months, or if employed less than 6 months, average number of hours employee would normally be scheduled to work.
- **Pay capped at \$200 per day and \$10,000 in aggregate per employee**



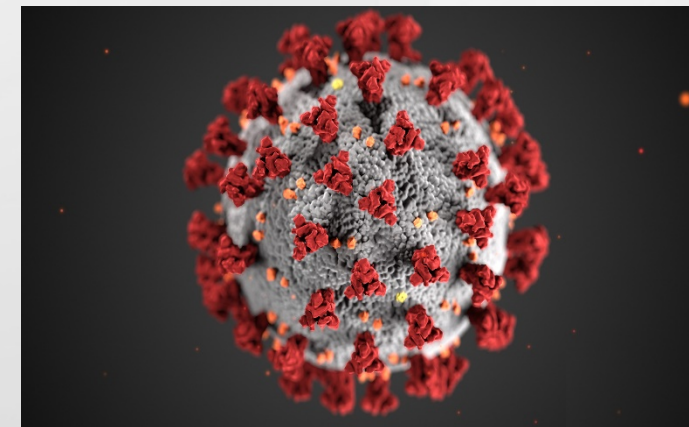
EMERGENCY FAMILY AND MEDICAL LEAVE ACT Interplay with Other Paid Leave

- The USDOL publication issued on the afternoon of March 24, 2020 clarified that eligible employees can get up to 12 weeks of paid leave for qualifying reasons. After the first 80 hours of paid sick leave, the only way to get the additional 10 weeks of paid leave is if the employee has to stay at home because a son or daughter cannot go to school.
- It is unclear at this time whether this means the 12 weeks of paid EFMLA will extend beyond what would be the regular end of the school year.



EMERGENCY FAMILY AND MEDICAL LEAVE ACT Tax Credits

- Employers subject to the requirements are entitled to a tax credit equal to the amount of the paid family and medical leave requirements paid by the employer.
- The tax credits for qualified wages are capped at \$200 per day and \$10,000 per calendar quarter per employee.



Things to Be Aware of

- State leave laws
- State laws that govern how much notice is required before changing someone's pay or hours
- State and federal wage & hours laws
- Employment contracts
- Contrary policies, procedures or practices
- ADA obligations

Questions?

