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What the Families First Coronavirus Response Act Means to Nonprofits

On March 19, 2020, the President signed into law, [H.R. 6201, the Families First Coronavirus Response Act](#). The bill included a complex set of temporary paid leave mandates and employer reimbursement provisions, as well as funding for free coronavirus testing, food nutrition security, and Unemployment extension.

Employment Provisions

The Families First Coronavirus Response Act imposed temporary job protections for workers, paid leave mandates on employers, and a generous reimbursement scheme for employers designed to hold nonprofit and for-profit employers. The law provided two weeks of paid sick leave, a subsequent ten weeks of partially paid family leave for care of a child, and refundable tax credits in many cases resulted in the Treasury Department writing checks to employers to cover some of the costs of the mandates.

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Two Weeks of Emergency Paid Sick Leave: The law (Section 5102) requires employers with fewer than 500 employees (including nonprofits) and government employers to provide their employees two weeks of paid sick leave, paid at the employee's regular rate up to \$511 per day,¹ to quarantine or seek a diagnosis or preventive care for the coronavirus. It also requires payment at two-thirds the employee's regular rate up to \$200 per day² to care for a family member for those purposes or to care for a child whose school has closed or child care provider is unavailable due to the coronavirus. These provisions expire at the end of December 2020.

The Secretary of Labor is authorized to exclude health care providers and emergency responders from the definition of employees allowed to take leave, exempt small businesses, including nonprofits, with fewer than 50 employees, and ensure consistency between paid family and paid sick standards and tax credits. In general, employees are entitled to 80 hours of paid sick time, and are immediately eligible for the leave under this bill.

Twelve Weeks of Emergency Family and Medical Leave: The law (Section 5102) expands the number of workers who can take up to 12 weeks of job-protected leave under the Family and Medical Leave Act for coronavirus-related reasons. After the two weeks of emergency paid leave (above), employees of employers with fewer than 500 employees will be eligible to receive at least two-thirds of each employee's usual pay, up to \$200 per day.³ Employees must have been employed for at least 30 days to qualify and meet a "qualifying need related to a public health emergency." The qualifying reasons for the emergency paid leave are caring for a child if the child's school or childcare center is closed due to coronavirus. The provisions would also expire at the end of 2020.

Generally, employees taking Emergency FMLA have job protection, but the bill provides an exception for employers with fewer than 25 employees if the position no longer exists following leave due to operation changes from the public health emergency. Health care providers and emergency responders are also excluded from the definition of employees allowed to take this leave, and the law exempts small businesses, including nonprofits, with fewer than 50 employees.

Reimbursable Payroll Tax Credits Available: Employers paying for the mandated paid leave are entitled to claim a refundable tax credit. Specifically, the tax credit is allowed against the employer portion of payroll taxes, and any paid leave costs that exceed the amount of payroll taxes owed will be refundable to the employer at the end of each quarter. This means the federal government will cover all or a portion of the costs of these paid leave mandates. The amounts depend upon what the employee is doing.

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analysis of the Families
First Coronavirus
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- Under the Paid Sick Leave Mandate: Employers paying for employees who had self-isolate, obtain a diagnosis, or comply with self-isolation recommendation with respect to coronavirus could receive tax credits of up to \$511 per day. Payments to employees caring for a family member or for a child whose school or child care center closed, qualified sick leave wages were capped at \$200 per day. Both types of wages were capped at 10 days in the aggregate. (**Section 7001**)
- Paid Family and Medical Leave Mandate: The refundable tax credit for qualified family leave provision was capped at \$200 per day and \$10,000 each quarter. (**Section 7003**)

Other Major Provisions

Supplemental Nutrition Assistance Program (SNAP): The legislation authorized states to request a waiver for temporary, emergency CR-SNAP benefits to existing beneficiaries up to the maximum monthly allotment. The Secretary of Agriculture was given broad discretion to provide flexibility for state waivers and USDA guidance. All work and training requirements for SNAP benefits were suspended during the crisis.

Child and Senior Food and Nutrition: A combined \$900 million was appropriated for the Special Supplemental Nutrition Program for Women Infants and Children (WIC), which provides nutrition for low-income pregnant women and mothers with young children, and the Emergency Food Assistance Program (TEFAP) to assist local food banks to purchase food as well as storage and distribution. WIC requirements of physical presence for certification could be waived by the Secretary of Agriculture. The legislation authorized the Department of Agriculture to approve state plans for emergency Electronic Benefit Transfer (EBT) food assistance for households with children who receive free or reduced school meals if their school closed for at least five consecutive days. A separate provision allowed all child and adult care centers to operate as non-congregate and take food to go. The Secretary of Agriculture could waive nutrition requirements due to disruption in the supply. An additional

\$250 million was provided for the Senior Nutrition program for 25 million home-delivered and pre-packaged meals to low-income seniors.

Emergency Unemployment Insurance Stabilization and Access Act: The law established a new act (**Section 4101**) to provide \$1 billion for emergency grants to states for processing and paying unemployment insurance (UI) benefits. Half of the funding would be for staffing, technology, systems, and other administrative costs for eligible workers. States had to require employers to provide notification of potential UI eligibility to laid-off workers, ensure workers have at least two ways to apply, and notify applicants when an application is received and processed. If an application could not be processed, the state had to provide information on how to ensure successful processing. The other half of funding was reserved for emergency grants to states with at least a 10 percent increase in unemployment, and these states would be able to receive 100 percent federal funding for Extended Benefits under a separate provision (**Section 4105**), compared to the normal requirement that the state funds 50 percent of the benefit. **Section 4103** provided states with access to interest-free loans to help pay regular UI benefits to the end of the year.

Coronavirus Testing: The law provided free testing for all Americans for COVID-19, regardless of insurance status or ability to pay. Private and public insurers (Medicare, Medicaid, CHIP, and other federal health programs) had to cover COVID-19 diagnostic testing, including the cost of a provider, urgent care center, and emergency room visits.

[\[i\]](#) Limit enacted in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. Law 116-132, enacted March 27, 2020.

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