COVID-19 CORONAVIRUS LAW

FAMILIES FIRST CORONAVIRUS RESPONSE ACT H.R. 6201
TIMING

- Wednesday, March 11 – WHO declared COVID-19 outbreak a pandemic
- Friday, March 13 – HR 6201 passed House of Representatives
- Wednesday, March 18 – HR 6201 passed Senate
- Wednesday, March 18 – HR 6201 signed by President Trump
EMPLOYER IMPACT – HR 6201

1. Emergency Family and Medical Leave Expansion Act (EFMLA)
2. Emergency Paid Sick Leave Act
3. Emergency Unemployment Insurance Stabilization & Access Act
EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT
EXPANDED COVERAGE & ELIGIBILITY

- Expansion is temporary
  - Effective April 2, 2020 through December 31, 2020
- Threshold changed from covering employers with 50 or more employees → covering workplace with fewer than 500 employees
- Lowers eligibility requirement to 30-days of employment
REASONS FOR EMERGENCY LEAVE

- Care for employee’s child if the child’s school or place of care has been closed due to a public emergency
EFMLA PAID LEAVE

- First 10-days unpaid
  - Employees may elect to substitute PTO, vacation, or sick time
- After first 10-days, must pay full-time employees at two-thirds
  - Cap - $200/day & $10,000 per employee
- Part-time or irregular scheduled employees paid based on the average hours worked 6-months prior
- Employers with bargaining unit employees apply for EFMLA provisions consistent with the bargaining agreement
JOB RESTORATION

- 25 or more employees – same obligation under traditional FMLA
- Fewer than 25 employees – generally excluded from this requirement
SMALL BUSINESS AND OTHER EXEMPTIONS

- Secretary of Labor has authority to exempt small businesses, but only if viability of the business is jeopardized
- Excludes certain healthcare providers and emergency responders
EMERGENCY PAID SICK LEAVE ACT
REQUIRES 80 HOURS OF PAID SICK LEAVE

- Employers with fewer than 500 employees
- Regardless of employee duration of employment
- In conjunction with the FMLA Expansion
- With an exception for employers who are healthcare providers or emergency responders at their election.
REASONS FOR PAID SICK LEAVE

1. Subject to a federal, state or local quarantine or isolation order related to COVID-19;
2. Advised by a health care provider to self-quarantine due to COVID-19 concerns;
3. Experiencing COVID-19 symptoms and seeking medical diagnosis;
4. Caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a health care provider to self-quarantine due to COVID-19 concerns;
5. Caring for the employee’s child if the child’s school or place of care is closed or the child’s care provider is unavailable due to public health emergency; or
6. Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
RATE OF PAY

- Regular rate of pay for 1 through 3 previously reviewed
- Two-third’s regular rate for 4 through 6 previously reviewed
RATE OF PAY (CONTINUED)

- Limited to $511/day up to $5,110 total/employee for their own use
- Limited to $200/day up to $2,000 total to care for others and any other condition
- Part-Time and Irregular schedule employees paid according to the EFMLA guidelines
- Will not carry over into 2021
- Is in addition to any paid sick leave currently provided
- Current paid leave policy cannot be changed
- Administered by the Social Security Administration
- Effective April 2, 2020 until December 31, 2020
EXAMPLES OF PAID SICK LEAVE & EFMLA
SCENARIO 1

Sally has been employed full-time for 20 days at a call center which employs 40 people. Sally is not eligible to receive any paid time off under her employer’s policies.

Sally has a sore throat and a fever of 100.7 and cannot report to work. Sally is waiting to be seen by her doctor.

What benefits is Sally entitled to while she is not working?

- Emergency Paid Sick Leave – 80 hours at her regular rate
- Sally would not be entitled to EFMLA because she was not employed for at least 30 days prior to the first day of her leave
SCENARIO 2

Sally has been employed full-time for 45 days at a call center which employs 40 people. As of today, she has accrued three (3) days of Paid Time Off under the employer’s policy.

The school where Sally’s fourth-grade daughter attends is closed until the end of April. Sally is unable to work from home during this time.

What benefits is Sally entitled to receive during this time?

- Emergency Paid Sick Leave – 80 hours at two-thirds her regular rate of pay
- Emergency Family and Medical Leave – up to 12 weeks of job protected leave
  - First ten (10) days are unpaid (but paid under Emergency Paid Sick Leave).
  - After 10 days, Sally is paid at 2/3 her regular rate
  - Sally may use her 3 days of PTO after the initial 10 days, but she is not required to
COVERAGE FOR TESTING FOR COVID-19

- Covers diagnostic testing, and related services without cost sharing
- Must be provided at no cost to the employee or any others covered
- Covered services and related cost waivers apply to:
  - diagnostic testing
  - healthcare provider services
  - facility costs
TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE

- PENDING – Phase 3 Stimulus Package
- Senate Majority Leader (Mitch McConnell) announced details
  - Cash for Small Business (possible grant to pay rent and workers)
  - Checks for Families (numbers are ranging from $500/$1200)
  - Loans for Big Businesses (industries that have been severely impacted)
EMERGENCY UNEMPLOYMENT INSURANCE STABILIZATION AND ACCESS ACT OF 2020
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- This portion of the act provides states $1 billion in emergency grants for unemployment related activities.

- Half the resources are to be allocated to provide funding to all states for admin costs if they meet the following criteria:
  - Educating employees about the availability of filing for unemployment
  - Providing at least 2 methods of filing for unemployment
  - Keeping employees updated on the status of the claims

- The other half will be reserved for emergency grants for states who experienced a spike in unemployment claims. Those states will be eligible if they meet the following criteria:
  - Committing to make access to unemployment benefits easier
  - Taking or planning to take steps to ease eligibility requirements
  - These provisions will stay in effect until December 31, 2020
QUESTIONS?