



COVID-19 Webinar Series | FAQs | Friday, March 20, 2020

Helping Clients Navigate HR & Their Business during Uncertain Times

Q1: President Trump signed the Families First Coronavirus Response Act (FFCRA) on March 18, 2020, so its provisions go into effect no later than April 2nd. Will the leave provisions, Emergency FMLA (EFMLA) and Emergency Paid Sick Leave (EPSL) be applied retroactively?

A: When a law is to be applied retroactively it will typically state so in plain language, which this legislation does not. Therefore, the law will likely not be enacted retroactively. GMS will alert you of any change to this.

Q2: Will private health plans cover the cost of COVID-19 diagnostic testing that occurs prior to April 2nd?

A: Yes, this section of the legislation is effective from the date of enactment, March 18, 2020, through the end of the national emergency period. The Act states that “a group health plan and a health insurance issuer offering group or individual health insurance coverage shall provide coverage, and shall not impose any cost sharing (including deductibles, copayments, and coinsurance) requirements or prior authorization or other medical management requirements” for specific items related to testing or related health care provider visits.

Q3: From now until April 2nd, how should we handle employees who need time away from work for COVID-19 related reasons? What documentation should we require?

A: Until the legislation takes full effect, continue handling these situations as you have been on a case by case basis. Work with your HR Account Manager for assistance. Rely on current employment policies, including but not limited to paid time off, paid vacation, sick leave, or other leaves of absence policies. Certification for certain absences (advisement by health care provider to self-quarantine, experiencing symptoms, seeking diagnosis) may be hard to obtain due to doctors not seeing patients, providing notes, or conducting full testing. GMS has created the attached [Documentation on a COVID-19 Absence](#) that may be used to gather facts and communicate details of a potential leave of absence. This would be filed in the employee’s confidential personnel file.

Q4: Do you have the forms necessary for employees to file for EFMLA and EPSL?

A: No, official forms or documentation have not been released yet by the Federal government. We will provide if, and when, they become available.

Q5: Do we have to offer EFMLA and EPSL to employees who are already or who will be laid off prior to April 2nd?

A: No, if employees are laid off, they become eligible for unemployment compensation under the Emergency Unemployment Insurance Stabilization and Access Act. This is handled separately from EFMLA and EPSL.

Q6: If I cut an employee's hours, can they apply for partial unemployment?

A: Yes, an employee experiencing a reduction in hours may apply for and obtain unemployment benefits. In Ohio, if the reduction in hours is due to COVID-19, employee should provide Mass Layoff ID# 2000180. These layoffs will not affect your unemployment rate as all coronavirus layoffs will be charged to the Ohio Unemployment Mutual Fund and will not be charged to your account.

Q7: How do I know if my business is considered essential? If I am NOT an essential business and must cease operations, do I have to pay my employees?

[Note: The Ohio Department of Health ordered Ohio residents to Stay at Home unless engaged in essential work or activity, effective 11:59 p.m. on March 23, 2020 and remaining in full effect until 11:59 p.m. on April 6, 2020.]

A: Every state differs in its classification of essential and non-essential business. Ohio's full list of essential businesses may be found in the Director's Stay at Home Order found [here](#). Until April 2nd, employers do not have to pay wages to most active employees if work is not being performed. After April 2nd, employees may be eligible for EFMLA or EPSL. If you experience layoff, employees are not eligible for either EFMLA or EPSL but may file for Unemployment. Ultimately this is a business decision depending on what your business is capable of. We encourage employers to find ways to allow employees to work from home and to utilize current time off policies prior to making a layoff decision.

Q8: If an employee is CHOOSING to stay home out of fear of exposure, how do you recommend we handle?

A: Evaluate the safety precautions you, as a business, have taken to protect employees and prevent the potential spread of COVID-19. If you feel that you have taken all preventative measures within reason, review your current time off policies and available time off balances with the employee, or explain the unpaid model you have been utilizing.

Q9: How can an employer apply for and receive the small business exemption to the leave provisions of the FFCRA?

A: Employers with fewer than 50 employees are eligible for an exemption from the requirements to provide leave in cases *where the viability of the business is threatened*. That said, it remains to be seen how to request an exemption and for which provisions of the legislation the exemption will apply to. Please note the FFCRA allows tax credits up to 100% of the cost of paid leaves. Under guidance that will be released this week, eligible employers who pay qualifying sick, childcare, or other leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying leave paid, rather than deposit them with the IRS. Per the legislation and the IRS, the payroll taxes that are available for retention include withheld federal income taxes, and both the employee and employer share of Social Security and Medicare taxes.

We will be covering tax credits and small business relief on Friday, March 27, 2020 during the next webinar in our COVID-19 webinar series. Please join us. You may register here:

<https://attendee.gotowebinar.com/rt/6872645169703825931>

Q10. Does it make sense to introduce layoffs or pay EFMLA/EPSSL to qualifying employee(s)?

A: You must do what is best and makes the most sense for your business and unique situation. Employee layoff is a difficult decision, and many employers will do everything they can to avoid it. The FFCRA provides a series of refundable tax credits to employers required to provide EFMLA and EPSL equal to 100% of the qualified family or sick leave wages paid by the employer. Consider this when making the decision that is best for your organization.