

Legislative Update

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March 30, 2020

INITIAL EMPLOYER GUIDANCE ISSUED FOR FFCRA

As previously reported, the Families First Coronavirus Response Act (FFCRA) was passed on March 18, 2020 with an effective date to be no later than April 2, 2020. The effective date of the FFCRA has been established at **April 1, 2020**, and DOL has issued initial guidance to employers that clarify some areas of the bill that are important for employers to understand.

Below are links to DOL's initial guidance and required notices for employers to post:

***"COVID-19 and the American Workplace"* page, which contains links to guidance provided in the form of Question and Answer documents describing employer requirements and employee rights:**

<https://www.dol.gov/agencies/whd/pandemic>

Question and Answer document describing posting requirements:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>

Required poster for non-federal employers:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Required poster for federal employers:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Federal.pdf

FEDERAL "CARES" ACT SIGNED INTO LAW ON MARCH 27, 2020

The Coronavirus Aid, Relief and Economic Security (CARES) Act, the largest and most comprehensive coronavirus relief package, became law on March 27, 2020. CARES aims to provide a boost to the economy through various provisions that support Americans and businesses. Provisions of the law that may have significant impact for employers and employees include:

- **Small business loans, including the \$350 billion "Paycheck Protection Program"** with forgiveness provisions meant to incentivize employers to retain employees. The Small Business Administration (SBA) is reportedly working to provide guidance documents for businesses.
- **Expansion of unemployment compensation eligibility and benefits.** The states are drafting their own specific programs which follow the new federal guidelines.
 - Eligibility is expanded to employees who are furloughed or out of work as a direct result of COVID-19, and the self-employed, or independent contractors

- Provision of an additional \$600 per week on top of the state-determined customary compensation amount. The increase is in effect for unemployment payments made from 3/27/2020 through 7/31/2020.
 - An additional 13 weeks of unemployment benefits is added through 12/31/2020 for employees who have exhausted the benefits available to them under existing state and federal law or who are not otherwise eligible for benefits under existing state and federal law. States must agree to adopt this provision.
 - 100% funding of “short-time compensation” programs is added providing prorated unemployment benefits for employees when employers shorten hours rather than doing laying offs.
 - Information about Wisconsin’s unemployment compensation provisions, as revised so far to provide COVID-19 relief can be found in Question and Answer format at the following link: <https://dwd.wisconsin.gov/covid19/public/ui.htm>
- **Health plan coverage of COVID-19 diagnostic testing** is provided without cost sharing.
 - **Rapid coverage of preventative services and vaccines for the coronavirus** – free coverage without cost sharing must be provided once a qualifying COVID-19 vaccine is available.
 - **Loosening of certain Health Savings Account (HSA) restrictions.** High Deductible Health Plans with HSAs will be able to cover telehealth services without requiring that minimum deductibles be met. HSAs (and FSAs) may also be used to pay for over-the-counter drugs (no doctor prescription required) and menstrual care products.
 - **Penalty-free coronavirus-related distributions from qualified retirement plans**, including 401(k), 403(b) and 457(b) plans, will be permitted. Both the 10% early withdrawal penalty and the 20% withholding requirement do not apply. Individuals may also be eligible for increased retirement plan loan amounts, and temporary waiver of required minimum distributions.
 - **Delayed minimum requirement distributions** - Employers sponsoring single-employer defined benefit plans may delay minimum requirement contributions until January 1, 2021.

The link to the Act in its full form is provided via a link below. At this time regulations are not available.

<https://www.foley.com/en/insights/publications/2020/03/-/media/cfeaabdbc8f84efc8baa1e969bbc7eac.ashx>

For assistance and consultation on these and other HR-related issues, feel free to contact us:

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