

# COVID-19 Legislation

## Notification of New Benefits to Employees

### SUMMARY

New legislation has been enacted to ease the economic consequences stemming from the COVID-19 pandemic. The new law, titled *Families First Coronavirus Response Act, H.R. 6201*, includes important provisions that address health coverage and financial support for employees.

1. Free COVID-19 Testing
2. Paid Sick Leave for Employees
3. Paid Leave Added to Family Medical and Leave Act (FMLA)

### HEALTH PLAN MANDATE - FREE COVID-19 TESTING

Mandate to Cover Testing. Group health plans and insurers must cover FDA-approved diagnostic products to detect the COVID-19 virus.

No Cost Share. The testing benefits will be provided without any cost-sharing, preauthorization, or other medical management requirements. Coverage requirements include related services provided during urgent care, emergency room, or in-person/tele-health provider visits that result in an order for or administration of a covered diagnostic test.

Impacted Plans. This requirement applies to all group health plans offered.

Will my Insurance Plan Respond Quickly? Most insurance carriers are already well down the road of implementing free coverage for COVID-19 testing. Many implemented these provisions prior to the law requiring them.

What about HDHP/HSA Plans? Authorities have confirmed that the free testing provisions in an HDHP plan will not cause contributions to an HSA to be disqualified.

Effective Date and Duration. The mandate is effective from March 18, 2020 through duration of the public health emergency declared by the Secretary of HHS.

### PAID SICK LEAVE FOR EMPLOYEES

Mandate to Provide Paid Sick Leave. Employers with fewer than 500 employees (as well as federal and state employers of any size) must provide paid sick time to employees who are unable to work or telework for specified virus-related reasons.

Eligibility for Paid Sick Leave. If you are a full-time employee, you are provided up to ten (10) days of paid sick time. If you are a part-time employee, you are entitled to sick time based on your average hours worked over a two-week period. Benefits are available immediately regardless of your length of employment.

QUALIFICATIONS (ANY OF THE FOLLOWING)	SICK LEAVE BENEFIT
1. You are subject to a <b>quarantine</b> or <b>isolation order</b> 2. You are advised by a health provider to <b>self-quarantine</b> 3. You are <b>experiencing symptoms</b> and seeking diagnosis	<b>100% of regular pay</b> <b>\$511</b> (Maximum daily benefit) <b>\$5,110</b> (Maximum total benefit)
4. You are <b>caring for an individual</b> described in category (1), (2), or (3) 5. You are <b>caring for a son or daughter</b> whose school or place of care has been closed 6. You are experiencing a <b>"substantially similar condition"</b> as specified by Health and Human Services (HHS)	<b>66.67% of regular pay</b> <b>\$200</b> (Maximum daily benefit) <b>\$2,000</b> (Maximum total benefit)

Paid Sick Leave Benefit Amount. Benefits are calculated based your regular rate of pay and the number of hours you would otherwise be normally scheduled to work. The maximum benefit varies based on the reason for absence as outlined in chart above.

More Details. The bill does *not* require that your employer provide the 10 days of paid sick time *in addition to* whatever paid sick time or PTO is already provided. However, your employer may not require you to use any other paid time program offered before you use this sick leave. The paid sick time does not carry over to any future year, and your employer is not required to reimburse you for paid sick time that you do not use if you leave your job.

No Replacement Search. Your employer may not require that you search for or find a replacement to cover the hours when you will be on sick leave.

Effective Date and Duration. The effective date is no later than 15 days after enactment (March 18, 2020). The mandate expires December 31, 2020.

## EXPANDED FMLA WITH PAID LEAVE

### Mandate to Provide Extended Paid Leave.

The law includes a temporary expansion of the Family Medical and Leave Act (FMLA) to cover a new category of leave related to COVID-19. Employers with fewer than 500 employees are required to provide paid leave due to the public health emergency.

Eligibility for Paid FMLA Leave. Emergency leave is available when you are unable to work or telework due to a need for leave that meets the following criteria:

- You need to **care for a son or daughter under age 18** because a school or place of care has been closed or a childcare provider is unavailable
- Your need is due to a **COVID-19 public emergency**
- You must have been **employed for at least 30 days.**

Duration of Paid Leave. The maximum duration of the FMLA leave is 12 weeks. The first 10 working days of leave is not required to be paid leave, but an employee may choose to use accrued vacation or other sick leave benefits, if available. Thereafter the leave must be paid.

Paid Leave Benefit Amount. After ten (10) days, paid leave must be provided as follows:

- **66.67% of regular pay**
- **\$200** (Maximum daily benefit)
- **\$10,000** (Maximum total benefit per employee)

Who is a “son or daughter”? The FMLA defines “son or daughter” as a biological, adopted or foster child; a stepchild; a legal ward; or a child of a person taking the place of a parent.

What about Health Insurance? The regular FMLA law requires your employer to continue your employee benefit plans during an FMLA leave. This new law is silent on any requirement to extend sponsorship of benefits beyond the “normal” FMLA period of 12 weeks. Therefore, if your COVID-19 paid leave benefit is longer than 12 weeks, until further clarification is available, you should plan on your benefits being terminated after 12 weeks.

Effective Date and Duration. The effective date is no later than 15 days after enactment (March 18, 2020). The mandate expires December 31, 2020.

## **REASONABLE NOTICE WHILE ON PAID LEAVE**

Your employer can require that you follow “reasonable notice” procedures in order to continue receiving paid sick time. While there is no specific definition of this, it is likely that you will be required to maintain communication with your employer regarding the continued status of your leave.

## **TAX CREDITS FOR EMPLOYERS**

While these benefits are important for you and other employees, it is also reasonable to wonder about the financial burden this may place on your employer. Notably, the bill provides tax credits for employers to help them cover the cost of providing these new paid leave benefits.