



## BULLETIN

March 23, 2020 (UPDATE)

### COVID-19 UPDATES

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With the continuously changing employment and legal landscape, the following FAQs provide updated information to help employers work through the complex COVID-19 crisis:

## **What is the latest information from the federal government related to employees' pay and leaves of absence?**

- On Wednesday, March 18, the President signed the Families First Coronavirus Response Act (the "Act") into law. A summary of the Act can be found by clicking the following link to [read our bulletin](#). The Department of Labor (DOL) is expected to release additional details on the Act on or before the April 2nd effective date.

## **What happens to our employees if they cannot work because we're in an area that is subject to a state/local "stay-at-home" order (e.g., CA, IL, NY, etc)?**

- It's possible that, under the Families First Coronavirus Response Act, employees could be eligible for 2 weeks of paid sick leave (paid by the employer) under the provision: "subject to a federal, state or local quarantine or isolation order related to COVID-19." If the upcoming DOL guidance reveals that "stay-at-home" orders do not trigger the paid leave, employees may be able to use the regular employer provided time off benefits such as vacation, sick, PTO, to continue pay in the absence of company-provided wages. Employees who are subject to layoffs, furloughs or reductions-in-hours can apply for unemployment benefits through their state.

## **Can you provide more information about the Illinois stay-at-home order?**

- Effective on March 21st, Illinois residents are required to stay at home at least until April 7, unless they are engaging in certain essential activities or operating an "Essential Business or Operation." The executive order names 27 broad categories of essential functions and businesses, which partially includes:
  - Healthcare and Public Health Operations;
  - Human Services Operations;
  - Essential Infrastructure;
  - Essential Governmental Functions;
  - Other Types of Essential Businesses and Operations
- Click the following link to view Governor Pritzker's [executive order](#) and the full list of covered businesses (paragraphs 7 through 12). Click the following link to view the executive order's [Frequently Asked Questions](#). If your company's operations are not essential, ensure that your business is safe and that your employees have a phone and/or email address of someone to contact in the event they have a question or need to report a COVID-19 diagnosis.

## **Can I temporarily reduce a salaried employee's hours and wages because our business is closed or slow?**

- Although it can get complicated, employers have the ability to reduce salaried (exempt) employees' hours and pay as long as it's prospective and it doesn't reduce the person's pay below the threshold of \$684 per week (or \$35,568 annually).

## **Can you explain how the Act works for an employee who is at home with a child?**

- An employee could be eligible for 2/3 pay from their employer (if the company has less than 500 employees) if the employee is unable to work or telework in order to care for their child (under 18 years of age) if the child's school or place of care is closed or the childcare provider is unavailable due to a public health emergency. The pay could reach 12 weeks through a combination of the Emergency FMLA and Emergency Paid Sick Leave Act. The pay and 100% tax credit for the employer are subject to certain limitations (e.g., \$200 / day cap).

## **If we have less than 50 employees, are we subject to the Act?**

- The Act has language that can exempt small businesses with fewer than 50 employees if the required leave would jeopardize the viability of their business. The DOL is expected to provide further guidance related to the process an employer would take to qualify for the exemption.

## **Would people who have already been laid-off or furloughed be eligible for payment under the Act?**

- We believe that laid-off employees (employment terminated prior to April 2) would not be eligible for the Emergency FMLA or Emergency Paid Sick Leave – the employer would not be forced to re-hire the person and then provide the Act's benefits. However, since furloughed employees (those on an unpaid leave of absence) are not terminated, we are anticipating the DOL's upcoming guidance will provide clarification for this type of situation.

Stay up-to-date with the latest material on our [coronavirus web page](#) - dedicated to sharing information about COVID-19 and how it relates to the workplace:

<https://www.employco.com/coronavirus>

We will continue to monitor the situation and provide updates throughout the process. We hope you and your family and friends are healthy.

Please [contact us](#) if you have any questions.



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