

Prepared by the **U.S. CHAMBER OF COMMERCE**

CORONAVIRUS PAID LEAVE PROGRAMS Employer Guide



The Families First Coronavirus Response Act created new temporary paid sick leave and paid Family and Medical Leave Act (FMLA) programs that are 100% reimbursable by the federal government. The effective date of both programs is April 1 and they expire on December 31.

Both programs are **in addition** to any leave you already offer.

The key numbers to remember with these paid leave programs are **500** and **50**.

- If you have *fewer than 500 employees*, your business is required to provide paid leave under both programs
- If you have *fewer than 50 employees*, though, you may be exempted from the requirement to provide leave under both programs (see p. 2)

The Department of Labor has issued clarifying guidance (available at www.dol.gov/agencies/whd/pandemic) and will continue to publish more information. In the meantime, here is the information you need to know now.

PAID SICK LEAVE Program

Which employees are eligible?

Eighty hours of paid sick leave is available to any employee without regard to duration of employment if they are unable to work or telework because they:

- are subject to a government quarantine or isolation order;
- have been advised to self-quarantine;
- are seeking a medical diagnosis; or
- are caring for someone with one of those three conditions.

Leave can also be taken if an individual cannot work or telework because of a need to care for a child whose school has closed or whose regular caregiver is unavailable because of Coronavirus.

How much will employees receive?

While taking paid sick leave, employees will receive their regular rate of pay up to a maximum of \$511 per day or \$5,110 in the aggregate.

This is reduced to 2/3 their regular rate of pay if they are caring for a family member or child whose school is closed or caregiver is unavailable with a maximum of \$200 per day (or \$2,000 in aggregate).

FAMILY and MEDICAL LEAVE ACT Program



Which employees are eligible?

To be eligible for paid FMLA leave, an employee must have been on your payroll for 30 days prior to taking leave. In addition, paid FMLA leave is only available if an employee is unable to work or telework because of a need to take care of a child because of a school closure or their regular child care provider is unavailable due to Coronavirus.

How much will employees receive?

Eligible employees may take up to 12 weeks of leave.

- The first two weeks of that can be unpaid (presumably the employee would be covered under paid sick-leave for those two weeks)
- After that, the employee is eligible for 10 weeks of paid FMLA

While taking paid FMLA leave, the employee will receive 2/3 of his/her regular rate of pay up to a maximum of \$200 per day (or \$10,000 in aggregate).

For more guidance, please click [here](#) to visit the IRS website.

Restoration to Previous Position: For businesses with fewer than 25 employees, it is not necessary to restore the employee to his/her previous position after paid FMLA leave is taken if the position no longer exists because of the public health emergency and the employer makes reasonable efforts to restore the employee to a similar position.

EXEMPTIONS

What if I have fewer than 50 Employees... Am I exempt?

Under current Department of Labor guidance, you can be exempt only if leave is being requested because of a school closure or because the child's regular caregiver is unavailable due to Coronavirus and if this leave would jeopardize the viability of the small business as a going concern.

This exemption is available if an authorized officer of the business certifies that at least one of the following is true:

- Providing leave would result in expenses and financial obligations exceeding existing revenues and cause the business to cease operating
- The absence of the employee would entail a substantial risk to the operation of the business because of their specialized skills, knowledge of the business, or responsibilities
- You cannot find other workers to perform the work of the employee, and that work is required for the business to operate at a minimal capacity

What if I am in the health care business... Am I exempt?

Businesses whose employees are healthcare providers or emergency responders may elect to exclude such employees from paid sick leave and paid FMLA leave.

The definition is fairly broad. Visit www.dol.gov/agencies/whd/pandemic/ffcra-questions for specific definitions of those terms.

Do I have to provide paid sick or paid FMLA leave if my business is closed?

No. If you close due to a lack of business or because of a federal, state, or local directive, you do not have to provide paid leave. In this case your employees would likely be eligible for unemployment compensation. This is the case whether you lay off or furlough employees.

REIMBURSEMENT



How will my business be reimbursed for this leave?

Costs associated with the paid sick and paid family leave programs are 100% reimbursable by the federal government through a refundable tax credit up to the maximum wages allowed (e.g. \$511 or \$200 per day), which is also applicable to the self-employed.

- The Treasury Secretary is provided with regulatory authority to help with cash flow issues, for example by waiving penalties for failing to deposit payroll taxes in anticipation of the credit and by providing advances to employers

For questions, please call the Department of Labor help line at (866)487-9243 (866-4US-WAGE).

Highlights of the CARES Act

The CARES (Coronavirus Aid, Relief and Economic Security) Act was signed by President Trump to help provide financial stability and relief for individuals and businesses affected by COVID-19. While the bill is very broad and addresses a number of areas and industries, and many of the specific details will still need to be analyzed, we believe the following are important to highlight for individuals and their families.

Cash Payments and Unemployment Assistance

- **2020 Recovery Payment:** All U.S. residents with adjusted gross income up to \$75,000 (\$150,000 joint filers) are eligible for a \$1,200 (\$2,400) payment, as well as an additional \$500 per child (under age 17).
 - There are no minimum income requirements for the payment. Individuals with little or no income are eligible provided they are not a dependent of another taxpayer and have a work-eligible Social Security number.
 - This amount is reduced by \$5 for every \$100 over the income limit above, so it would be fully phased out for those with incomes over \$99,000 (single) and \$198,000 (joint filers) with no children.
- **Increased Unemployment Assistance:** Provides an additional \$600/week payment to each recipient of unemployment insurance for up to four months.
 - Provides an additional 13 weeks of unemployment benefits through Dec. 31, 2020, for those who remain unemployed after state unemployment benefits are no longer available.
- **Delay in Tax-filing Requirements:** Individuals now have until July 15, 2020, to file their 2019 tax returns instead of April 15.
 - The Treasury Department has also postponed the deadline for making IRA contributions until the date taxpayers file their 2019 tax return during the extended filing period.

Retirement Account Changes

The following apply to qualifying individuals including those who are diagnosed with COVID-19, have a spouse or dependent who is diagnosed with COVID-19 or experience adverse financial consequences as a result of COVID-19, including quarantines, layoffs, business closures or child care responsibilities.

- **Elimination of Early Withdrawal Penalty:** Waives the 10% early withdrawal penalty for withdrawals up to \$100,000 from qualified retirement accounts for retirement plan participants who qualify for COVID-19 relief. Income tax on the distribution would still be owed but could be paid over a three-year period. Individuals could “recontribute” the funds to the plan within three years without regard to contribution limits. While the law allows for these types of penalty-free distributions, individual plans can set more restrictive policies.
- **Increase in the Retirement Plan Loan Amount:** Increases the amount that can be taken as a loan from a qualified retirement plan from \$50,000 to \$100,000 for 2020.
- **Temporary Waiver of RMDs for 2020 for All Retirement Savers:** Waives the required minimum distribution (RMD) requirement for retirement plans and IRAs in 2020. This provision also applies to RMDs due in 2020, but attributable to 2019. Individuals do not need to meet COVID-19 qualifying criteria to temporarily waive RMDs for 2020.
- **Items for Consideration:**
 - In general, we recommend exhausting some of the other provisions associated with the CARES Act first, such as mortgage and student loan relief, or using the recovery payment to bridge the gap on current expenses before taking a distribution or loan from your retirement accounts.
 - For any withdrawal or loan, we recommend working with your financial advisor to consider developing strategies to recontribute/pay back these funds over time to reduce any long-term impact to your retirement goals.

Enhanced Tax Benefits for Charitable Gifts

- **\$300 Deduction of Cash Contributions:** Ability to deduct up to \$300 of cash contributions to charities, regardless of whether the individual itemizes deductions.
- **Changes to Limits on Charitable Contributions:**
 - **Individuals:** For those who itemize their deductions for charitable giving, the 50% of adjusted gross income limit is suspended for 2020.
 - **Corporations:** The 10% limit on charitable contributions is increased to 25% of taxable income.

Mortgages

- **Mortgage Relief for Homeowners:** Requires the servicers of federally backed mortgages to postpone mortgage payments at the request of the borrower, provided the borrower affirms financial hardship due to COVID-19. The postponement must be granted for up to 180 days and extended for an additional period of up to 180 days at the request of the borrower.
- **Foreclosure Moratorium:** Prevents the servicer of a federally backed mortgage loan to initiate any foreclosure process for at least 60 days beginning on March 18, 2020.
- **Eviction Relief for Renters:** For 120 days after the CARES Act date of enactment, landlords with mortgages backed by the U.S. Department of Housing and Urban Development (HUD), Fannie Mae, Freddie Mac, and other federal entities cannot pursue eviction for their tenants. Landlords also can't charge any fees or penalties related to nonpayment of rent.

Student Loans/Education

- **Loan Payment Suspension:** Suspends payments automatically for federal student loans through Sept. 30, 2020, with no interest accruing or penalties during the period of suspension.
- **Additional Provisions:** Contains a variety of other emergency-relief provisions related to education, and specifically the impact of many students being sent home mid-semester. For example, it allows universities to make payments to students who were unable to complete work-study programs.

Small-business Owners

- **Small-business Loans:** Many small businesses are now eligible for disaster relief loans from the Small Business Administration. Additionally, the CARES Act provides conditions for when loan payments may be deferred and loan amounts forgiven.
- **Other Provisions:** There are additional tax and accounting provisions such as:
 - An employee retention tax credit for employers subject to full or partial suspension of business due to COVID-19
 - The ability to delay payment of employer payroll taxes
 - Modifications for rules around net operating losses
 - Modifications for rules around corporate AMT (alternative minimum tax) credits
 - A temporary increase in the limitation on interest deductions imposed by the Tax Cuts and Jobs Act

Partner with Your Tax Professional

As with any decision involving taxes, consult with your tax professional on considerations and impacts to your specific situation. Your financial advisor can partner with them to provide additional financial information that can help in the decision making process.

Work with your Edward Jones financial advisor to consider key aspects of the CARES Act as part of your financial strategy.

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