



# HR CRISIS MANAGEMENT: COVID-19 UPDATES, SEEKING CLARITY IN MURKY TIMES

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# Update from Congressman Andy Barr





# 2

## New FFCRA Guidance & Updates

### ADOPTION & IMPLEMENTATION

- On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (FFCRA)
- The FFCRA required the Department of Labor (DOL) to provide regulatory compliance exceptions on or before March 24, 2020
- The FFCRA directed the DOL to identify enforcement guidelines and sick leave calculations on or before March 31, 2020
- The FFCRA becomes effective on April 1, 2020

## 2 New FFCRA Guidance & Updates

### EXCEPTIONS & CLARIFICATIONS

*On March 20, 2020,  
the IRS, Department of  
the Treasury, and the  
DOL announced  
FFCRA exceptions and  
clarifications*

- Employers with between 1-500 employees must provide paid leave in accordance with FFCRA
- Small businesses with less than 50 employees may be exempt from sick leave requirement relating to school closing or childcare unavailability; *no other relief*
- There is a 30-day “non-enforcement period” identified **(clarified by later DOL Directive on Mar 26, 2020)**

*On March 24, 2020,  
the DOL announced  
FFCRA requirements  
for paid leave for all  
employees*

### PAID LEAVE REQUIREMENTS

- Two weeks (up to 80 hrs) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined and/or experiencing COVID-19 symptoms; or
- Two weeks (up to 80 hrs) of paid sick leave at 2/3 of the employee's regular rate of pay for care of a quarantined individual or care for a child (under 18 years of age) whose school or childcare provider is closed due to COVID-19; **and**
- For all employees employed more than 30 days, up to an additional 10 weeks of paid expanded family and medical leave at 2/3 of the employee's regular rate of pay where an employee is unable to work due to the need to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19

*March 24, 2020  
guidelines continued:*

### HOW DOES AN EMPLOYEE QUALIFY?

An employee qualifies for paid sick leave if they are unable to work (or telework) for these reasons related to COVID-19:

1. is subject to a quarantine or isolation order;
2. is advised to self-quarantine;
3. is experiencing symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in number 1 or 2 above;
5. is caring for a child whose school or place of care is closed; or
6. is experiencing any other substantially-similar condition, **and**

An employee qualifies for **expanded family leave** if they are caring for a child whose school or place of care is closed.

## 2 New FFCRA Guidance & Updates

*March 24, 2020  
guidelines continued:*

*For leave related to quarantine, isolation  
or symptoms (reasons 1-3):*

*For leave related to caring for an individual  
subject to quarantine or is experiencing a  
similar condition (reasons 4 or 6):*

*For leave related to childcare caused  
by the closure of school or childcare centers  
(reason 5):*

## HOW DO YOU CALCULATE BENEFITS?

- Employees taking leave shall be paid at the higher of their regular rate or minimum wage, up to \$511 per day/\$5,110 in the aggregate (over a 2-week period)
- Employees taking leave shall be paid at the higher of 2/3 their regular rate or 2/3 the applicable minimum wage, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period)
- Employees taking leave shall be paid at the higher of 2/3 their regular rate or 2/3 of the applicable minimum wage, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period—two weeks of paid sick leave followed by up to 10 weeks of paid expanded family and medical leave)

### HOW DO EMPLOYERS RECEIVE REIMBURSEMENT?

*March 24, 2020  
guidelines continued:*

- The FFCRA, DOL, and IRS, have concluded that Employer will receive a “dollar-for-dollar reimbursement” through the business being able to retain and access funds that they would otherwise pay to the IRS in payroll taxes
- If the payroll taxes retained are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form (to be released during the week of 3/29/2020)

*On March 26, 2020, the DOL and Wage and Hour Division (WHD) issued additional guidelines, required posters, and FAQ:*

### FIELD ASSISTANCE BULLETIN

WHD issued a Field Assistance Bulletin advising of a “temporary non-enforcement period applicable to the FFCRA”:

- “The Department will not bring enforcement against any public or private employer for violations of the Act occurring within 30 days of the enactment of the FFCRA, (i.e. March 18 thru April 17, 2020), provided that the employer has made “reasonable, good faith efforts to comply with the Act”
- Bulletin provides “qualifications” for “reasonable” and “in good faith” that appears to suggest potential liability for terminations leading up to April 1, 2020 effective date

## 2 New FFCRA Guidance & Updates

*The new Paid Sick Leave and EFMLA Employee Poster, available on DOL and WHD websites:*

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅓ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- |   |   |
|---|---|
| 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;              | 5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or |
| 2. has been advised by a health care provider to self-quarantine related to COVID-19;                       | 6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.                           |
| 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;                                    |   |
| 4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); |   |

### ▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://www.dol.gov/agencies/whd)



WH1422 REV 03/20

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# FFCRA Questions & Answers





# 3

## Senate CARES Act Implications for Employers

### REFUNDABLE TAX CREDIT FOR 2020

- \$1,200 to individual filers with income of \$75,000 or less (or \$112,500 or less for a HOH); \$2,400 to married couples filing jointly with adjusted gross incomes of \$150,000 or less
- Those that qualify also receive an additional \$500 refundable credit for each of their “qualifying children”
- The credit is reduced by 5% of the taxpayer’s adjusted gross income over the applicable threshold. Complete phase out for taxpayers more than \$99,000 (ind.), \$146,500 (HOH), and \$198,000 (joint)

# 3

## Senate CARES Act Implication for Employers

*The CARES Act includes various programs that provide financial relief to employers and employees:*

### KEY "PHASE 3" CARES ACT PROVISIONS:

- Employers, and self-employed individuals, can defer the 6.2% payroll tax through 12/31/2020, payable ½ by the end of 2021, and ½ by the end of 2022
- Employers have the ability to recapture 3-years of NOL
- Confirms EFMLA, unemployment, and sick leave benefits:
  - Enhanced total and partial unemployment benefits, including self employed, independent contractors, and those who have previously exhausted unemployment benefits
  - No more than 39 weeks, increased by an additional \$600 per week
  - Does not apply to those who can telework or who are receiving paid Sick Leave

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## Senate CARES Act Implication for Employers

### KEY "PHASE 3" CARES ACT PROVISIONS, *continued*

*The Act includes various programs that provide financial relief:*

- Provides loans through the Small Business Administration to be utilized to cover payroll costs, expressly excluding compensation of individuals in excess of \$100,000
  - Allows loan forgiveness equal to the amount the borrower paid in the 8-week period following receipt of the loan for payroll costs, mortgage interest, rent and utilities, fractionally reduced based upon employment eliminated based upon COVID-19
  - If SBA loans are forgiven, then the business is not entitled to defer the 6.2% payroll tax

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# CARES Act Questions & Answers





# 4

## COVID-19 Impact on Kentucky Unemployment Claims

### KENTUCKY UNEMPLOYMENT UPDATES

- Starting March 16, 2020, Kentucky suspended waiting periods and work search requirements for unemployment claims
- Kentucky has implemented an alphabetical application process in an attempt to expedite review and screening
- Individuals typically not covered by unemployment insurance, including self-employed, independent contractors, freelance workers, substitute teachers, childcare workers employed by religious affiliated organizations and non-profits are covered
- Kentucky mirrors the FFCRA in declaring that employees not able to work for “good cause” because of self-quarantine or to care for a family member affected by the virus are also eligible (portions may be superseded by portions of the FFCRA)

# 4 COVID-19 Impact on Kentucky Unemployment Claims

Additional resources available through Kentucky's Education & Workforce Development Cabinet and Kentucky Career Center at [educationcabinet.ky.gov/](http://educationcabinet.ky.gov/)



[Home](#) | [Office Locations](#) | [Contact](#)

[Unemployment Services](#) ▾ [Veterans Express](#) ▾ [Vocational Rehabilitation](#) ▾ [Citizen Connect](#) ▾

**To File for Unemployment Insurance,  
Click File Claim**

[FILE CLAIM](#)

## Unemployment Insurance Claim On These Days

In order to serve you better, UI claims will be filed on a specific day of the week based on the first letter of your last name.

Sunday.....	A-D
Monday.....	E-H
Tuesday.....	I-L
Wednesday.....	M-P
Thursday.....	Q-U
Friday.....	V-Z
Friday.....	If You Missed Your Day

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Kentucky  
Unemployment  
Questions  
& Answers





HANNA RESOURCE GROUP



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