



March 27, 2020

TO: WLCA Members

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RE: New Guidance
U.S. Department of Labor - Families First Coronavirus Response Act

The U.S. Department of Labor has released guidance regarding the Families First Coronavirus Response Act.

Key takeaways:

1. Applies to employers with less than 500 employees and to employees who have been employed for at least 30 days.
2. 80 hours of paid sick leave at regular rate of pay because the employee has been quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis. Note – Wisconsin's Safer at Home order is not a quarantine or isolation order for purposes of this Act.
3. 80 hours of paid sick leave at two thirds regular rate because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19
4. Although the guidance is strangely silent on this point, the Act itself states that the first 10 days of leave shall be unpaid leave, but an employee can elect to substitute any accrued vacation leave, personal leave or medical or sick leave for of the unpaid leave. The reimbursed paid leave begins after the employee has completed the 10 day unpaid leave.
5. The Act does provide up to 10 additional weeks of paid leave at two-thirds regular rate of pay if the employee is unable to work or telework due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.
6. An employee can seek leave if the employee:

- a. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 - b. has been advised by a health care provider to self-quarantine related to COVID-19;
 - c. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
 - d. is caring for an individual subject to an order described in (a) or self-quarantine as described in (b);
 - e. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
 - f. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.
7. Small businesses with fewer than 50 employees may seek an exemption when the imposition of such requirements would jeopardize the viability of the business as a going concern. So far, the Department of Labor tells such businesses, “To elect this small business exemption, you should document why your business with fewer than 50 employees meets the criteria set forth by the Department, which will be addressed in more detail in forthcoming regulations.”

Here are links to the new guidance:

[Questions and Answers on the FFCRA,](#)

[Fact Sheet for Employers](#)

[Fact Sheet for Employees](#)

[Other additional guidance](#)

As always, consult with an attorney for legal advice specific to your business.

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