

Families First Act Summary

Sean M. Weiss, CHC, CMCO, CPMA, CMPE, CPC-P, CPC
Partner & Chief Compliance Officer
DoctorsManagement, LLC

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Families First Act

The Act takes effect not later than 15 days after the date of enactment of this Act and it Sunsets (expires) December 31,2020!

General Information:

- An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of the provisions in the amendments made under section 3102 of this Act.
- 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year'.
 - To exempt small businesses with fewer than 50 employees from the requirements of section 102(a)(1)(F) when the imposition of such requirements would jeopardize the viability of the business as a going concern.
 - The employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable.
 - The first 10 days for which an employee takes leave under section 102(a)(1)(F) may consist of unpaid leave.
 - An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave under section 102(a)(1)(F) in accordance with section 102(d)(2)(B)
 - An employer shall provide paid leave for each day of leave under section 102(a)(1)(F) that an employee takes after taking leave under such section for 10 days.

Calculation of Compensation

- Paid leave under subparagraph (A) for an employee shall be calculated based on—
 - “(I) an amount that is not less than two-thirds of an employee’s regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)); and
 - “(II) the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under subparagraph (C)).

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Calculation of Compensation (cont'd)

- “(ii) CLARIFICATION.—In no event shall such paid leave exceed \$200 per day and \$10,000 in the aggregate.
 - i. “(C) VARYING SCHEDULE HOURS CALCULATION.—In the case of an employee whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave under section 102(a)(1)(F), the employer shall use the following in place of such number:
 - “(i) Subject to clause (ii), a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.
 - “(ii) If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.
 - Under section 102(a)(1)(F) for the purpose described in subsection (a)(2)(A)(iii) is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.

Restoration of Position

- The employer makes reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment.
 - “(D) If the reasonable efforts of the employer under subparagraph (C) fail, the employer makes reasonable efforts during the period described in paragraph (3) to contact the employee if an equivalent position described in subparagraph (C) becomes available.
 - “(3) CONTACT PERIOD.—The period described under this paragraph is the 1-year period beginning on the earlier of—
 - i. “(A) the date on which the qualifying need related to a public health emergency concludes; or
 - ii. “(B) the date that is 12 weeks after the date on which the employee’s leave under section 102(a)(1)(F) commences.”.

Paid Sick Time

- An employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:
 - (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID–19.
 - (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19.
 - (3) The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis.
 - (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
 - (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions.
- The amount of hours of paid sick time to which an employee is entitled shall be as follows:
 - (A) For full-time employees, 80 hours.
 - (B) For part-time employees, a number of hours equal to the number of hours that such employee works, on average, over a 2-week period.
 - (3) CARRYOVER.—Paid sick time under this section shall not carry over from 1 year to the next.
- An employer may not require, as a condition of providing paid sick time under this Act, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick time.
 - The paid sick time under subsection (a) shall be available for immediate use by the employee for the purposes described in such subsection, regardless of how long the employee has been employed by an employer.
 - An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time under subsection (a).

Non-Retaliation for Those Taking Sick Leave

- It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who—
 - (1) takes leave in accordance with this Act; and
 - (2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act (including a proceeding that seeks enforcement of this Act), or has testified or is about to testify in any such proceeding