

MANAGING IN A TIME OF UNCERTAINTY

COVID FAQs FROM AN HR PERSPECTIVE

Hello!

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- Michigan-based HR Consultant
- Focus on:
 - Employee Relations
 - Leadership Training
 - Compliance



Key COVID Issues Crossing my Desk

- Time Off due to COVID Issues
 - *FFCRA – Paid Sick Leave*
 - *FFCRA – Family Medical Leave*
 - *FMLA (if 50 or more employees in a 75-mile radius)*
 - *Medical Leaves*
 - *STD*
 - *UI Benefits*
- Flexible Arrangements for Childcare/Virtual Learning
- Travel and Post-Travel Quarantine Policies
- Workforce Issues

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Families First Coronavirus Response Act

- Federal legislation that was signed into law on March 18th with an effective date of April 1st – December 31st
- Applies to all employers with under 500 employees
 - *Employers with less than 50 employees can claim an exemption (from the childcare leave provisions ONLY)*
 - *Health care providers and emergency responders can be exempt from FFCRA provisions*
- Notice requirements and request forms
- Provides paid leave provisions to eligible employees for qualifying reasons
- Employers will be reimbursed for the cost of providing FFCRA leave through tax credits
- FFCRA leave is not eligible for payout if unused and is not eligible for carryover beyond 12/31.

Possible Exemptions

- On September 16th, the DOL narrowed the definition of 'healthcare provider' and moved from a broad employer view to a specific view related to employee job duties.
- Healthcare providers are now limited to only those employees you have hired to **"provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care."**
 - Ie: Nurses, MAs and lab techs could be considered 'healthcare providers' and thus be exempt from FFCRA. However, receptionists, billers, administrative staff would no longer meet this definition and would have to be allowed FFCRA time for qualifying reasons.

Possible Exemptions

- Health care providers and first responders
- Employers with 50 or less employees IF an authorized officer of the business has determined that:
 - The provision of paid sick leave or expanded family and medical leave would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
 - The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
 - There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

FFCRA Banks of Paid Leave

PAID SICK LEAVE

- 2 week equivalent (up to 80 hours)
- Full pay (up to \$511/day cap)
- No waiting period
- Cannot require Ee to pull from another bank of time first
- Qualifies for leave if Ee is quarantined (by fed/state/local order or medical advice) or is experiencing COVID symptoms and seeking a medical diagnosis
- Cannot be taken intermittently if employee is required to work in-person. If teleworking, then intermittent leave may be approved

PAID SICK LEAVE

- 2 week equivalent (up to 80 hours)
- 2/3 pay or minimum wage whichever is greater (up to \$200/day cap)
- No waiting period
- Cannot require Ee to pull from another bank of time first
- Qualifies for leave if Ee is caring for an individual subject to quarantine, or to care for their minor child whose school or childcare provider is closed, or experiencing a similar condition (catch-all)
- Can be taken intermittently w/ Er approval

EXPANDED FMLA

- 12 weeks of leave (first 10 days are unpaid)
- 2/3 pay or minimum wage whichever is greater (up to \$200/day cap)
- Ee must be employed with you at least 30 days
- Can require Ee to pull from PTO to make up remaining 1/3 of pay
- Qualifies for leave if Ee is caring for their minor child whose school or childcare provider is closed or unavailable for reasons related to COVID and no other suitable person is available to care for the employee's son or daughter
- Can be taken intermittently w/ Er approval

Medical Leaves

- FMLA leaves if employer has more than 50 employees in a 75-mile radius
- In the absence of state or federal requirements, company policy will dictate
- In the absence of company policy, past practices will dictate
 - Consider length of leave
 - 'Reasonableness' for ADA purposes
 - Medical certification
 - Pay and benefit implications

DEPENDING ON THE SITUATION, DISABILITY POLICIES MAY COME INTO PLAY

Unemployment Benefits

- Current national unemployment rate is 9%
- Federal enhancements of \$600/week (through July) and \$300/week (through mid-September)
- Potential for UI enhancements to last through the end of the year if another federal aid package is passed

CHILDCARE CONCERNS

Needs Assessment and Flexibility

- Survey staff to determine impact of school schedules on work schedules
- Consider:
 - Flexible hours
 - FFCRA leave time
 - Connections to caregiver/tutor services
 - Subsidies to offset increased childcare costs
 - Creation of an onsite learning lab

TRAVEL POLICIES

Considerations for Time Off Requests

- To grant or not to grant?
- Post-travel quarantine?
 - State or local health department requirements?
 - Company policy?

CONSIDERATIONS FOR COMPANY-MANDATED QUARANTINE

- In what circumstances?
- For how long?
- Paid or unpaid?
- UI eligible?

WORKFORCE ISSUES

Workforce Implications

- What issues are your team members grappling with in the wake of COVID?
 - Fear/anxiety
 - Increased demands on their time
 - Exposure incidents
 - Shallow applicant pool – longer time to fill?
 - Others?