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**Legally Brief**

**COVID-19 and the Emergency Family & Medical Leave Expansion Act**

***What Does It Do?***

The coronavirus emergency relief package signed into law last week gives many American workers paid leave if they need to take time off because of the outbreak, but there are lots of exceptions to keep in mind. Here are some important key points of the new law:

* The **Emergency Family and Medical Leave Expansion Act** requires private sector employers with fewer than 500 employees and government employers to provide employees with up to 12 weeks of paid family and medical leave (FMLA).
* The paid family and medical leave is available to any employee who has been employed for at least 30 days, if they are out of the work place in order to:
  + Care for children if schools are closed or their day care is unavailable because of a public health emergency and they are unable to work or telework.
* After 10 days, during which time the employee can take unpaid or paid leave (if available under the employer’s policy), employees are compensated at 2/3 of their regular rate.
* Paid leave under this requirement shall not exceed $200 per day and $10,000 in the aggregate. (This conforms to the amount of the tax credit.)
* The provision takes effect not later than 15 days after enactment of the bill and sunsets on December 31,2020.
* Each quarter, private sector employers subject to the requirement are entitled to a fully refundable tax credit equal to 100% of the qualified paid FMLA wages paid by the employer.
* Qualified paid FMLA wages are capped at $200 per day and $10,000 overall.

**The Emergency Family and Medical Leave Expansion Act** requires that an employer shall provide to each employee paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:

* The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
* The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
* The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
* 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).
* 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 employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

**Under the expansion of the FMLA employee is entitled to:**

* For full-time employees, 80 hours.
* 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.

**The paid sick time under shall be available for immediate use by the employee for the purposes described, regardless of how long the employee has been employed by an employer.**

Other points:

* Employees are compensated at the higher of their
  + regular rate
  + the federal minimum wage, or
  + the local minimum wage, but not to exceed $511 per day and $5,110 in the aggregate.
* However, if the employee is absent to care for a sick family member, a child unable to attend school, or because they meet the criteria for similar conditions they are compensated at 2/3 of the rate they would otherwise receive, but not to exceed $200 per day and $2,000 in the aggregate. (This conforms the pay to the amount of the available tax credit.)

For more information or with questions, please contact ICADV Legal Counsel Kerry Hyatt Bennett at [kbennett@icadvinc.org](mailto:kbennett@icadvinc.org)