FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFA)
Effective April 1, 2020 - December 31, 2020

START HERE
Do you have more or less than 500 employees?

- more
  - FFA does not apply

- less
  - At time of leave, has EE worked more or less than 30 days?
    - less
      - FFA does not apply
    - more
      - Reason for being away from work

Unable to work or telework due to care of child < 18 y.o. because of school or childcare facility closure due to public health emergency

Emergency FMLA
Up to 12 weeks of job protected leave

- 10 days unpaid
- Up to 10 weeks - paid at 2/3 of EE's regular rate of pay
- May use Emergency Paid Sick leave
- Pay may be capped at $200/day (or $10,000 in aggregate). Employer may pay more, but tax credit capped based on $200/day or $10,000 in aggregate.

Job restoration at end of Emergency FMLA

- Applies if ER has 25+ EEs; ERs with <25 EEs are generally excluded from this requirement if position no longer exists following Emergency FMLA due to economic downturn or other circumstances.
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START HERE
Do you have more or less than 500 employees?

less

Reason for being away from work

any other reason

FFA does not apply

Unable to work or telework due to:
(1) EE is quarantined or isolated by Federal, State or local order
(2) EE advised by health care professional to self-quarantine due to concerns related to COVID-19
(3) EE is experiencing symptoms of COVID-19 and seeking medical diagnosis
(4) EE is caring for an individual subject to quarantine or isolation by Federal, State or local order or by direction of health care professional
(5) EE is caring for child because of school or childcare facility closure
(6) EE is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with Secretary of Treasury and Secretary of Labor

Emergency Paid Sick Leave
Up to 80 hours, Prorated amount for part-time employees

Emergency Paid Sick Leave is in addition to any other employer-provided paid time off

Paid at 100% of EE's regular rate of pay

reasons (1) - (3)

Pay may be capped at $511/day (or $5,110 in aggregate)

reasons (4) - (6)

Paid at 2/3 of EE's regular rate of pay

Pay may be capped at $200/day (or $2,000 in aggregate)

Employer may pay more, but tax credit capped based on noted amounts above
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Other Notable Mentions

Special Rules

• Employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from Emergency FMLA and Emergency Paid Sick Leave
• Secretary of Labor may exempt small businesses with fewer than 50 employees if imposition of the programs’ requirements would jeopardize the viability of the business

Emergency FMLA

• Using Emergency FMLA on an intermittent basis – still not clear
• Employee notice to company of need for leave – as soon as practicable

Emergency Paid Sick Leave

• Employee notice to company of need for leave – as soon as practicable
• Employee may use Emergency Paid Sick Leave before any other employer-provided paid time off; employer may not require employee to use other paid time off before Emergency Paid Sick Leave
• Emergency Paid Sick Leave does not preempt any local paid sick leave requirements that already exist
• No year-end carryover of unused Emergency Paid Sick Leave
• Unused Emergency Paid Sick Leave is not paid out upon separation of employment
• Employers may not retaliate against employees for use of Emergency Paid Sick Leave
• Employee cannot be required to find replacement

Calculating Rate of Pay for Emergency FMLA and Emergency Paid Sick Leave

• Full time employees: Regular rate of pay, hours normally scheduled to work
• Part time employees, variable hour employees: Average number of hours employees worked for six months prior to taking leave
• Employees with less than six months of service: Average number of hours the employee would normally be scheduled to work over two-week period

Visit Somerset online to stay up to date and informed on the latest news and information regarding the coronavirus' impact on you and your business. The challenges are changing each day, but we are committed to keeping you informed. Please reach out directly to your Somerset contact with questions and concerns.