



COVID-19 Benefits Compliance Updates & FAQ

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Please note that the following is intended to be used for general guidance purposes only — it is not intended to constitute legal advice, nor is it a dispositive position on coverage. Each claim is subject to review by the applicable insurer and coverage is dependent upon the terms and conditions of your specific insurance policy.

Benefits Compliance Updates & FAQs

AGENDA

1. Additional FFCRA Guidance & FFCRA Scenarios
2. Review/Readying to Reopen – Benefit Considerations
3. Our Team's Resources
4. Questions (Q/A Session)

****Disclaimer:** The information presented here is current as of April 21, 2020. The government is frequently issuing new guidance, and we will address updates each week.

Additional FFCRA Guidance & FFCRA Scenarios



Additional FFCRA Questions and Answers

DOL Releases more Q&As

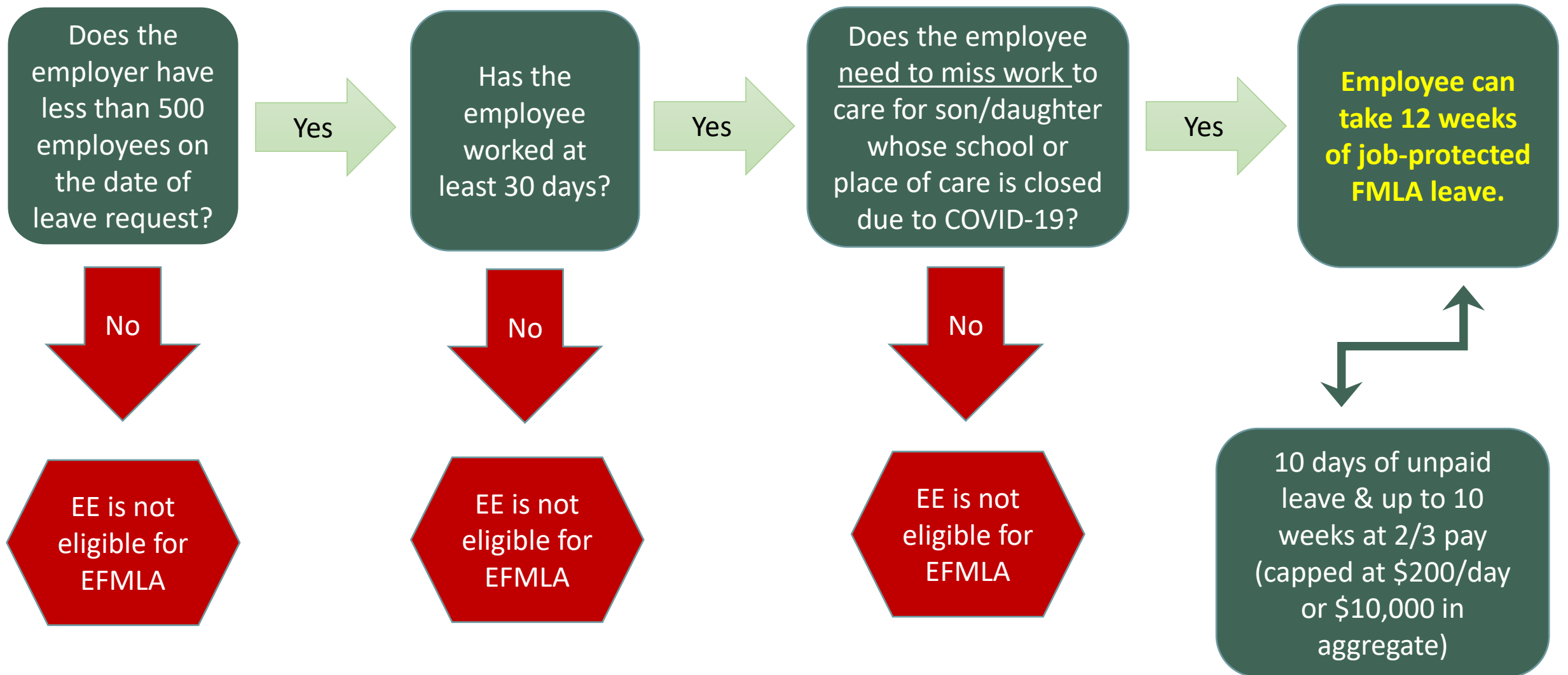
- Published on April 20
- Questions 80-88
 - 80-81 – How to compute hours for employees working irregular hours
 - 82-83 – How to compute “regular rate”
 - 84 – Allowing rounding hours
 - 85 – Determining “regular rate” when leave taken during different periods
 - 86 – FFCRA integration with employer leave policies
 - 87 – Stay-at-home or shelter-in-place orders = federal, state, or local quarantine or isolation order
 - 88 – Hourly recovery amount if DOL brings action against an employer
- How do employers compute the number of paid sick leave or expanded FMLA hours to provide an employee with irregular hours?
- What is the employee’s ‘regular rate’?
- Can an employer require an employee to use their PTO instead of paid sick or expanded FMLA leave?

Additional FFCRA FAQs

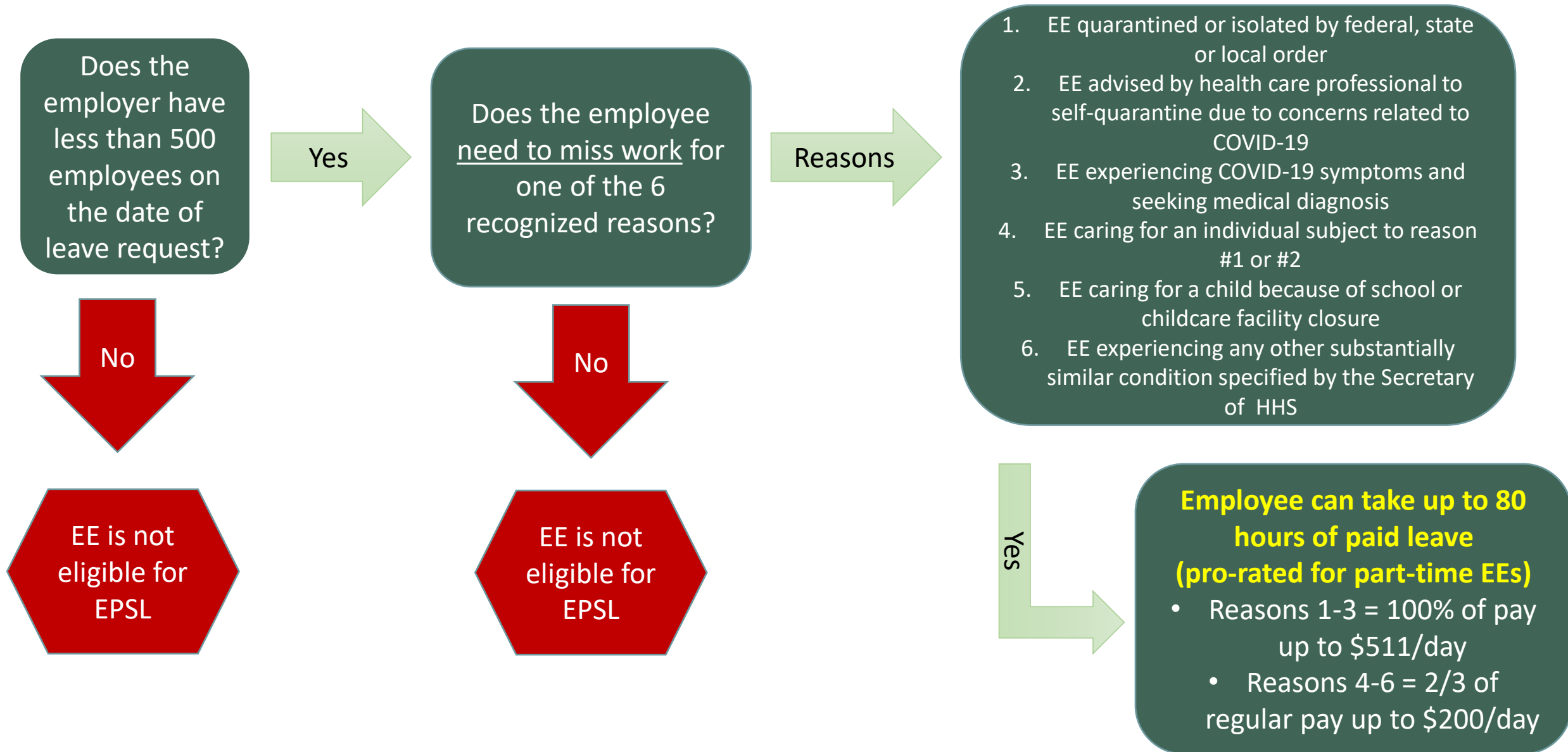
IRS Releases one additional FAQ

- Published on April 17
- Question 67 – Employers that claim the small employer exception will get a tax credit if they provide the leave for some reasons, but not others
 - Can a small employer recognize some COVID-19 reasons for leave and not others?
 - What would this mean for the tax credit?

FFCRA Flowchart: Is Employee eligible for expanded FMLA?



FFCRA Flowchart: Is Employee eligible for emergency paid sick leave?



FFCRA Scenario 1

Facts:

- Maria works for a hardware store (with less than 500 employees) that is open for business during COVID-19 crisis
 - Maria has a 3-year old child whose daycare is closed due to COVID-19
 - Maria cannot work from home and must care for her child
- Maria is eligible for both expanded FMLA and emergency paid sick leave
 - Emergency paid sick leave can be used for the 10 days before expanded FMLA kicks in
 - Maria should request leave and provide employer with her name, dates of leave, reason for leave, name of child, name of daycare, and statement that no one else is available to care for the child

FFCRA Scenario 2

Facts:

- Tommy works for a retail operation (with less than 500 employees) that is closed during COVID-19 crisis because of the state's stay-at-home order. No employees are able to work.
 - Tommy has a 8-year old child whose school is closed due to COVID-19
 - Tommy must care for his child
- Tommy is not eligible for expanded FMLA nor emergency paid sick leave because the business is closed (in other words, there is no work for him to do)
 - Tommy could likely seek unemployment
 - The answer would be the same if Tommy was furloughed

FFCRA Scenario 3

Facts:

- Esther works for a payroll company (with less than 500 employees) that is having employees work from home during COVID-19 crisis
- Esther could potentially work from home, but is experiencing COVID-19 symptoms and seeking medical diagnosis

- Esther is eligible for up to 80 hours of emergency paid sick leave
- Esther should request leave and provide employer with name, dates of leave, reason for leave, statement that she is unable to work due to reason, and name of healthcare provider from whom she is seeking medical diagnosis

Non-FFCRA Scenario 4

Facts:

- Reuben works for an IT company (with 600 employees) that is having employees work from home during COVID-19 crisis
- Reuben is ill from COVID-19.

- Reuben is not eligible for FFCRA because it doesn't apply to his company
- Reuben could still be entitled to conventional FMLA

Reviewing/ Ready to Reopen: Benefit Considerations



Reviewing/Readying to Reopen – Benefit Considerations

Covid-19 Related Legislation:

- Families First Coronavirus Response Act (FFCRA)
- Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- FFCRA & CARES Act Subsequent Guidance (HHS, DOL, Treasury FAQs)
- State Laws
- Proposed Legislation

- How do these laws affect each component benefit plan?
- What steps do I need to take now?
- What is the status of the various proposed measures?

Reviewing/Readying to Reopen – Section 125 Cafeteria Plan

Section 125 Cafeteria Plan

- Allows for pre-tax deferrals of benefit payments
- Eligibility terms are key
- Elections cannot be changed absent a qualifying event (QE) recognized in the plan document
- Non-discrimination rules apply

- What are the eligibility terms?
- Which QEs are recognized in the document?
- Is a salary reduction a QE?
- Is an insurer's COVID-19 special enrollment now a qualifying event?
- Should I still perform midyear testing?

Reviewing/Readying to Reopen – Group Health Plan

Group Health Plan

- Provides significant benefits in the nature of medical care
 - Eligibility terms are key
 - For ALES, ACA mandates/shared responsibility rules continue to apply
- What are the eligibility terms?
 - Are furloughed employees eligible?
 - How are rehires treated?
 - How does the ACA measurement period affect eligibility?
 - If the employer's share of the premium or the employee's salary is reduced, how does this affect affordability?

Reviewing/Readying to Reopen – Group Health Plan

Group Health Plan

- FFCRA (as amended by CARES Act) mandates COVID-19 testing is covered for both fully insured and self-funded plans without cost sharing
- What items and services are included in COVID-19 testing?
- Are antibody tests included?
- When must the coverage be provided?

Reviewing/Readying to Reopen – Group Health Plan (HDHP)

Group Health Plan (HDHP)

- HSA-Compatible HDHP generally cannot provide benefits other than preventive care without cost-sharing until HSA statutory deductible is met, BUT:
 - per IRS Notice 2020-15, COVID-19 testing and treatment can be covered by HDHP before deductible is met without impacting HSA eligibility
 - and CARES Act permits telehealth and other remote care services (not limited to COVID-19 care) to also be covered
- If the plan elects to cover COVID-19 treatment without cost-sharing, does the plan need to be amended first?
- Do participants need to receive an SBC 60 days before the additional coverage is effective as per the ACA?

Reviewing/Readying to Reopen – Health Savings Account (HSA)

Health Savings Account (HSA)

- HSA arrangement is generally not an ERISA plan
- For pre-tax contributions through a cafeteria plan, employee must have option to change election at least monthly
- ER may contribute to plan and contributions are not forfeitable
- Non-discrimination rules apply to HSA contributions made through a cafeteria plan
- Cares Act permit OTC drugs and menstrual products to be covered by HSA

- Can an HSA employer contribution be reduced or eliminated prospectively midyear?
- Can employees who are laid off use HSA funds to pay for COBRA premiums?
- When can the HSA owner begin using the HSA funds to pay for OTC items?
- Can the HSA funds be used to buy face masks to prevent the spread of COVID-19?

Reviewing/Readying to Reopen – Group Health Plan (COBRA)

COBRA

- Few coverage exceptions – church, federal government, < 20 employees in prior year
 - Covered employees, spouses and dependents who lose plan eligibility due to furlough, layoff, reductions in hours must be offered COBRA
 - Many states have continuation coverage for employees of small employers not covered by federal COBRA
- Has COBRA been timely offered to all qualified beneficiaries upon a loss of plan eligibility?
 - Can coverage be extended beyond 18 months?
 - Are there any options for employees who cannot afford the COBRA premiums?
 - Does COBRA need to be offered for dental and vision plans?

Reviewing/Readying to Reopen – Health FSA

Health FSA

- Furloughed employees and Coverage Plan document should be reviewed with respect to furloughed employees.
 - If furlough results in loss of health FSA eligibility, then the employee can drop FSA coverage (or it may terminate automatically).
 - Employees with underspent FSA balances can elect COBRA for remainder of plan year
 - But if eligibility continues through a furlough (including FSA eligibility), then there would be no qualifying event.
 - CARES Act permits OTC drugs and medicines and menstrual products to be covered by health FSA
- Are there any proposals to allow furloughed and other employees to change or revoke elections due to the COVID-19 pandemic?
 - Are there any potential options for employees with underspent accounts who could not receive elective medical care due to COVID-19? Will these employees be given more time to use funds so they are not lost?
 - When can an FSA plan cover non-prescription medications and menstrual products? Is an amendment necessary to do so?

Reviewing/Readying to Reopen – Dependent Care FSA & Leave

DC FSA

- Unlike other types of FSAs, the DCFSA rules tend to be interpreted liberally.
- So, employees can generally adjust (stop, modify or restart) elections prospectively in accordance with a childcare cost or coverage change (as long as document permits).
- Employee with childcare closures may be eligible for FFCRA paid sick leave or EFMLA
- COVID-19 does not suspend nondiscrimination rules!

- Due to childcare closures, can employees reduce their DCFSA elections or opt out altogether?
- What if the child will now be watched by a relative for free due to a furlough?
- Does FFCRA FMLA leave still apply once the school season is over?
- Is it still necessary to perform non-discrimination testing if so few are participating?

Reviewing/ Ready to Reopen: Other Arrangements and Policies



Reviewing/Readying to Reopen- Other Arrangements & Policies

As a result of the COVID-19 pandemic, employers are reviewing (or considering):

- Employee Assistance Programs (EAPs)
- Telehealth Arrangements
- Wellness Programs
- Leave Policies
- HIPAA Policies and Procedures

- Is there new guidance?
- Are there issues that may have been overlooked?
- What changes should be considered now?

Reviewing/Readying to Reopen- Employee Assistance Programs

Employee Assistance Programs (EAPs)

- Typically must be carefully designed so as not to provide “significant benefits in the nature of medical care” taking into account the nature, duration, amount and scope of covered services.
- If EAP provides such significant benefits, then additional legal requirements (e.g. under ACA, ERISA) must be satisfied.
- Recent guidance has addressed utilization of EAPS during pandemic.

- Can EAPS offer benefits for COVID-19 testing and diagnosis without being considered ‘significant medical care’?
- If so, for what time period is this guidance effective?

Reviewing/Readying to Reopen- Telehealth Services

Telehealth Services

- Telehealth services have become immensely popular during the pandemic as a method is sought to diagnosis individuals while mitigating the spread of COVID-19.
- Many states have encouraged or required insurers to offer or expand telehealth services (in some cases without cost sharing).
- Are telehealth services considered 'significant medical care' or can these arrangements be offered similar to an EAP for COVID-19 treatment and diagnosis?
- What steps should I take as an employer with respect to telehealth offerings?

Reviewing/Readying to Reopen- Wellness Programs

Wellness Programs

- Many employers offer to promote fitness and well-being
- Depending on design, many laws – HIPAA, ERISA, ADA, GINA can apply
- Program may be participatory (attend a wellness seminar) or health contingent by activity (i.e., walking program) or outcome based (i.e., quit smoking).
- Under HIPAA non-discrimination rules for health contingent programs, reasonable alternatives or waivers apply. I.e., employee must be given alternative or waiver to receive reward (e.g., elimination of surcharge) even if employee does not meet standard.

Employer should review wellness program during pandemic and consider:

- Was employee able to participate in health contingent or outcome based program?
- If not, was a viable reasonable alternative or waiver offered?
- Is a surcharge waiver or subsequent rebate appropriate?

Reviewing/Readying to Reopen- Leave Policies

Leave Policies

- Employers have their own leave and PTO policies
- If < 500 employees, FFCRA paid sick leave and expanded FMLA apply through 12/31/20
- Conventional FMLA may still apply (e.g., serious health condition of EE of family member)
- States may have paid sick leave, family and disability leave
 - Some have added special COVID-19 leave provisions (e.g., NY)
- Counties and cities can have their own requirements (e.g., Westchester County, NY) not necessarily superseded by state law

Employer should review all applicable leave policies to determine:

- How do these policies interact?
- Do they run concurrently?
- Is intermittent leave permitted?
- Does employer wish to modify its own policies prospectively?

Reviewing/Readying to Reopen- HIPAA Policies and Procedures

HIPAA

- Employers with self-insured plans will inevitably have some involvement with PHI even if limited to matters such as appeals
- So, employer should have HIPAA policies and procedures and training for staff
- Business Associate Agreements (BAAs) should be in place between the covered entity (plan) and service providers regarding the use, storage and transmission of data
- Minimum necessary rules apply in terms of disclosure

Employer should review policies and procedures and consider:

- Has COVID-19 pandemic response affected or increased employer's handling of PHI?
- Do policies and training need to be modified accordingly?
- Employer should consult with employment counsel regarding PHI disclosure parameters with respect to the COVID-19 pandemic.

Our Team's COVID-19 Resources



Benefits Compliance FAQ Document

Insights for Employers

NFP

COVID-19 Latest Insights

Frequently Asked Questions: Benefits Compliance and COVID-19

Last Updated April 16, 2020

Table of Contents

COVID-19-Related Furloughs, Leave, and Layoffs and Impact on Benefits

1. What are the implications for group health plans if employees are furloughed (or on an unpaid leave of absence)?

2. If eligibility during furlough/leave of absence allows the continuation of benefits, can coverage be terminated at the request of an employee who cannot afford the coverage?

3. What happens to benefits if the employer decides to lay off (terminate from employment) the employee?

4. Can an employee receive unemployment while on furlough?

Families First Coronavirus Response Act

5. What is the Families First Coronavirus Response Act (FFCRA)?

6. When is the FFCRA effective?

7. Which employers are subject to the FFCRA?

8. How do the controlled group rules interplay with the FFCRA?

9. When does the small business exemption apply to exclude a small business from providing paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons?

10. When is a business with fewer than 50 employees exempt from the requirements to provide paid sick leave or expanded family and medical leave?

11. How does FFCRA apply to non-profit organizations?

12. How does FFCRA apply to public sector employees?

13. Does FFCRA apply to union employees?

14. If an employer utilizes a staffing agency for temporary workers, which entity includes those workers in their count? Which entity is responsible for providing the paid leave?

15. Are there definitions of "full time" and "part time" for purposes of FFCRA?

16. Are there definitions of "son" and "daughter" for purposes of FFCRA?

17. Which "health care providers" can be excluded by their employers from the emergency paid sick leave and expanded FMLA leave granted under the FFCRA?

18. Which "emergency first responders" can be excluded by their employers from the emergency paid sick leave and expanded FMLA leave granted under the FFCRA?

19. What are the consequences for an employer who refuses to comply with the FFCRA requirements?

20. How does an employee qualify for expanded FMLA?

21. What pay benefits are provided for under the expanded FMLA provision?

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22. Can the emergency expansion to FMLA be used intermittently?

23. If an employee has used 12 weeks of FMLA within the last 12 months, are they entitled to the emergency FMLA expansion now?

24. Will FMLA forms be updated to reflect the new leave?

Families First Coronavirus Response Act (continued)

25. What new notice or documentation requirements, if any, apply to the expanded FMLA leave?

26. How does an employee qualify for the Emergency Paid Sick Leave?

27. Who is a "health care provider" that can advise a person to self-quarantine due to concerns related to COVID-19 for purposes of paid sick leave?

28. What benefits are provided under the Emergency Paid Sick Leave?

29. May an employee use emergency paid sick leave for 10 days before their paid emergency FMLA extension leave kicks in, if they are unable to work or telework because they are caring for a son or daughter who is out because school or daycare is closed?

30. Will emergency paid sick leave toll any waiting period for an employer's health coverage?

31. What notice requirements, if any, apply to Emergency Paid Sick Leave?

32. Is an employer required to restore an employee's position upon return from FFCRA leave?

33. What does the FFCRA require for cost-sharing related to COVID-19 screening and treatment?

34. If the cost for COVID-19 testing is waived, does this disqualify an HDHP for purposes of HSA-eligibility? What about for costs for COVID-19 treatment?

35. What are employers doing for employees that are ineligible for or previously waived group health plan coverage?

36. Does the FFCRA apply to employees who were on furlough prior to the FFCRA's effective date?

37. What tax credits does the FFCRA provide?

38. What is the amount of the tax credit available to employers?

39. What are "qualified health expenses"?

40. How can employers start claiming the credit?

41. What documentation should an employer receive from an employee to substantiate the FFCRA paid sick leave or expanded FMLA leave?

42. Are federal income taxes withheld from qualified paid sick leave or expanded FMLA wages? Can employees make salary reduction contributions from the amounts?

43. May a tax exempt employer receive the credits?

44. Where can I obtain more information regarding the tax credits, forms, and filing process?

45. Are there state and/or local laws mandates that apply?

46. HIPAA and ADA protected information

CARES Act FAQ

47. What is the CARES Act?

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48. How does the CARES act amend the rules concerning HDHP status and HSA eligibility as they pertain to telehealth coverage that is provided before the deductible is met?

49. Can reimbursement accounts (HSAs/FSAs/HRAs) now be used for over-the-counter drugs and menstrual products?

50. What are the additional COVID-19 tests that group health plans must cover without cost-sharing (or other medical management requirements)?

CARES Act FAQ (continued)

51. What future immunizations or vaccines related to COVID-19 will be required to be covered without cost-sharing?

52. How is COVID-19 test pricing determined?

53. Are student loan repayments now eligible for reimbursement as a fringe benefit?

CARES Act & Retirement Benefits

54. How does the CARES Act impact hardship distributions for retirement plans?

55. How does the CARES Act impact plan loans from retirement plans?

56. Did the CARES Act waive required minimum distributions (RMD)?

Other Frequently Asked Questions

57. Can small business loans offered through the CARES Act be utilized for insurance premiums?

58. How does the CARES Act unemployment expansion impact furloughed employees?

59. With childcare and school closures, can changes be made to dependent care FSA (DCAP) elections?

60. If the cost for all telemedicine services is waived, does this disqualify an HDHP for purposes of HSA-eligibility?

61. Can employers take the temperature of employees coming to work?

62. Did the extension of the individual tax filing deadline extend the date by which certain employee benefits contributions can be made for 2019?

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State-Focused Resources: Quick Reference Chart



NFP Benefits Compliance: COVID-19 State Updates

Current as of April 15, 2020

 = Paid Sick/Family Leave

State	Date	Update
Alabama	3/17/20	Bulletin No. 2020-02 requests carriers to waive cost-sharing for COVID-19 testing NFP Article »
	3/30/20	Bulletin No. 2020-04 addresses continuity of operations during coronavirus pandemic
	3/30/20	Bulletin No. 2020-05 provides policy cancellation recommendations NFP Article »
Alaska	3/3/20	Bulletin 20-03 allows Rx refills w/o carrier authorization NFP Article »
	3/6/20	Bulletin 20-04 requires carriers to waive cost sharing for COVID-19 (and other respiratory issue) testing; encourages telehealth expansion NFP Article »
	3/17/20	Bulletin 20-07 requires telehealth coverage for all covered services NFP Article »
	3/18/20	Bulletin 20-08 prohibits carriers from terminating coverage due to nonpayment of premiums; waives late fees for late payments NFP Article »
	3/18/20	Bulletin 20-09 requires carriers to waive cost-sharing for COVID-19 tests for office, urgent care and ER visits NFP Article »
	3/20/20	Bulletin 20-10 encourages carriers to allow employers to revisit premium rates relating to increased COVID-19 exposure/risks NFP Article »
	3/18/20	Regulatory Order R20-02 extends deadlines for external health care reviews NFP Article »
	3/25/20	Emergency Rule Amendment to 2 AAC 31.450 , to include persons suffering respiratory distress syndromes as high-risk individuals whose coverage is subject to reinsurance NFP Article »
	3/27/20	Bulletin B 20-11 imposes new requirements for group health plans, claims and telehealth related to COVID-19 outbreak NFP Article »
	3/29/20	Bulletin B 20-12 temporarily suspends certain utilization review and notification requirements NFP Article »
Arizona	3/11/20	Exec Order 2020-07 requires coverage of COVID-19 testing without cost sharing; encourages telemedicine NFP Article »
	3/25/20	Exec Order 2020-15 requires telehealth be treated on same terms as in-person visit NFP Article »




State-Focused Resources: Quick Reference Chart

(*)	3/17/20	FAQs: Additional guidance on COVID-19 and paid sick time/leave in Arizona
	4/2/20	Executive Order 2020-20 requires Board of Pharmacy to waive certain requirements and allow pharmacists flexibility to fill emergency refills for up to 90-day supply. NFP Article »
	4/7/20	FAQs: Application of Fair Wages and Healthy Families Act to COVID-19 outbreak NFP Article »
Arkansas	3/20/20	Bulletin 6-2020 : Imposes a 60-day moratorium on cancellations/non-renewals for non-payment of premiums COVID-19
	3/27/20	Bulletin 13-2020 : Telemedicine must be covered on same terms as in-person visits NFP Article »
	4/6/20	Insurance Department Announcement identifies regulatory suspensions due to public health emergency NFP Article »
California	3/16/20	New COVID-19 FAQs for Employers, and on Paid Family Leave and Unemployment Insurance
	3/16/20	New CA Chart : Benefits for Workers Impacted by COVID-19
(*)	3/17/20	FAQs: Additional guidance on California Paid Sick Leave and COVID-19
	3/18/20	CA Insurance Department notice encouraging carriers to take necessary steps to maintain ability to process/pay claims in timely manner
	3/18/20	CA Insurance Department notice requesting carriers to provide a 60-day grace period for insurance premium payments
	3/20/20	CA Insurance Department notice on essential business and insurance; encouraging carriers to continue core insurance functions as possible during COVID-19 pandemic
	3/20/20	Covered California (state health insurance exchange) announces special enrollment for any Californian to enroll through June 15
(*)	4/15/20	State Disability Insurance and Paid Family Leave Benefits Related to COVID-19 FAQ NFP Article »
(Emeryville)	3/17/20	City of Emeryville issues guidance on COVID-19 as it relates to the city's paid sick leave ordinance
(Los Angeles)	4/7/20	Los Angeles Supplemental Paid Sick Leave Due to COVID-19 NFP Article »
(San Francisco)	3/15/20	SF OLSE announces cancellation of the employer requirement to submit the 2019 HCSC Annual Reporting form (normally due April 30)
(San Francisco)	3/16/20	SF Mayor announces program to provide employers with public funding for additional paid sick leave in response to COVID-19 NFP Article »
(San Francisco)	3/24/20	OLSE guidance on use of SF Paid Sick Leave During COVID-19 Pandemic

(San Jose)	4/7/20	San Jose Paid Sick Leave Related to COVID-19 NFP Article »
Colorado	3/9/20	Bulletin No. B-4.104 requires COVID-19 testing without cost-sharing; one-time early Rx refills NFP Article »
(*)	3/11/20	Emergency rules require four extra paid sick leave days for eligible workers, including those isolated/quarantined for COVID-19 NFP Article »
	3/17/20	Emergency Regulation 20-E-01 : no cost sharing for COVID-19 telehealth; must cover one additional early Rx refill NFP Article »
	3/20/20	Connect for Health Colorado (state exchange) announces special enrollment period from 3/20/20 through 4/3/20 NFP Article »
	3/27/20	Bulletin No. B-4.105 : Carriers must offer premium grace periods and waive late fees; prohibits cancellation for nonpayment of premiums NFP Article »
	4/2/20	Emergency Regulation : Carriers must reimburse telehealth services using audio and video; on same terms as in-person visits
	4/3/20	Emergency Regulation 20-E-05 requiring carriers to provide coverage for telehealth under same conditions as in-person visits NFP Article »
	4/3/20	Emergency Regulation 20-E-06 extending special enrollment period for state exchange until April 30, 2020 NFP Article »
	4/7/20	Bulletin 4.106 reminds insurance carriers of their obligations to provide coverage for home health care services NFP Article »
Connecticut	3/9/20	Bulletin No. IC-39 : encourages carriers to waive cost-sharing for COVID-19 testing; authorizes 90-day supply of Rx NFP Article »
	3/18/20	Access Health (state exchange) announces special enrollment period from 3/19/20 through 4/2/20 NFP Article »
	3/19/20	Exec Order No. 7G expands telehealth and requires telehealth to be provided on equal terms as in-person visits NFP Article »
	3/24/20	Bulletin No. IC-40 : carriers must offer premium grace periods and waive late fees; prohibits cancellation for nonpayment of premiums NFP Article »
	4/1/20	Executive Order No. 7S calls for premium grace period for insurers affected by COVID-19 pandemic NFP Article »
	4/5/20	Executive Order No. 7U provides financial protections for healthcare providers and consumers NFP Article »
Delaware	3/9/20	Bulletin No. 115 reminds all carriers that COVID-19 testing is a covered essential health benefit and that access to telehealth and telemedicine services should be made available
	3/20/20	Bulletin No. 116 addresses waiver of pre-authorization requirements, telehealth, non-cancellation for non-payment of premiums, and enforcement under catastrophic health coverage plans
D.C.	3/20/20	Commissioner's Order 01-2020 requires plans to cover COVID-19 screening, testing, and treatment without cost-sharing
(*)	3/17/20	COVID-19 Response Act : Amends DCFMLA to provide new COVID-19-related job-protected leave; applies to employers of any size

State-Focused Resources: State Leave and Unemployment Legislative Updates

<div> NFP</div> <div>State Leave and Unemployment Legislation Responding to COVID-19</div> <div>As of 4.16.2020</div>	
State	Bill Summary
Alaska	HB 308 Relates to unemployment benefits during a period of state or national emergency resulting from a novel coronavirus disease (COVID-19) outbreak. Enacted.
Arizona	SB 1694 An emergency measure that permits the Arizona Department of Economic Security (DES) to establish an alternative unemployment insurance (UI) benefit program for people impacted by the coronavirus disease (COVID-19). Enacted.
California	SB 943 Authorizes wage replacement benefits to workers who take time off work to care for a minor child whose school has been closed due to the COVID-19 virus outbreak. Pending.
California	AB 3216 Requires certain workforce protections related to family and medical leave due to the coronavirus. Pending.
District of Columbia	B 718 To provide, on an emergency basis, authority to the Executive and to address critical needs of District residents and businesses during the current public health emergency including wage replacement, business relief, and additional authorities and exemptions regarding health, public safety and consumer protection. Enacted.
District of Columbia	B 719 To provide, on a temporary basis, authority to the Executive and to address critical needs of District residents and businesses during the current public health emergency including wage replacement, business relief, and additional authorities and exemptions regarding health, public safety and consumer protection. Pending.
District of Columbia	B 733 Provides, on an emergency basis, additional authority to the Mayor and to address critical needs of District residents and businesses during the current public health emergency including wage replacement, business relief, and additional authorities and exemptions regarding health, public safety, consumer protection, and government operation, and to authorize and provide for the issuance, sale, and delivery of certain District of Columbia notes and bonds. Enacted.
District of Columbia	B 734 Provides, on a temporary basis, additional authority to the Mayor and to address critical needs of District residents and businesses during the current public health emergency including wage replacement, business relief, and additional authorities and exemptions regarding health, public safety, consumer protection,

State Legislation Regarding COVID-19 as of 4.9.2020 (4:00 pm) 1

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COVID-19 Latest Insights

Insights for Employers

COVID-19 State Leave Provisions: New York

Last Updated April 16, 2020

Effective March 18, 2020, New York enacted Senate Bill S8091, referred to as Governor Cuomo's New COVID-19 Paid Sick Leave Law (hereafter "the NY Act"), in response to the coronavirus pandemic. All employers that are subject to New York State Workers' Compensation Law are subject to the provisions of the NY Act on behalf of all persons recognized as employees under the state's Workers' Compensation Law.

The NY Act enhances job-protected leave and paid sick leave for a covered employee who is unable to work due to a mandatory or precautionary order of quarantine or isolation imposed on the employee or on the employee's minor child in connection with COVID-19. It also expands the application of existing statutory New York Paid Family Leave (NYPFL) and New York Disability (NYDBL) under specific circumstances related to COVID-19. Benefits under the NY Act are not available to employees who are able to work through remote access or other means.

The benefit enhancements of the NY Act apply at the individual level to an employee if the employee, or the employee's minor child, is "subject to a mandatory or precautionary order of quarantine or isolation issued by the state of New York, the department of health, local board of health, or any governmental entity duly authorized to issue such order due to COVID-19" (the NY Act, S8091, Section 2).

Preventive social distancing or "stay-at-home" measures, even if by order of the state (such as New York State on PAUSE), do not constitute quarantine or isolation orders for purposes of the NY Act. Likewise, the NY Act does not cover employees who are unable to work due to their child's school closure, unless the school is closed due to a mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or governmental entity. In addition, the NY Act does not cover employees who independently choose to self-quarantine or self-isolate but who are not subject to a duly authorized quarantine or isolation order.

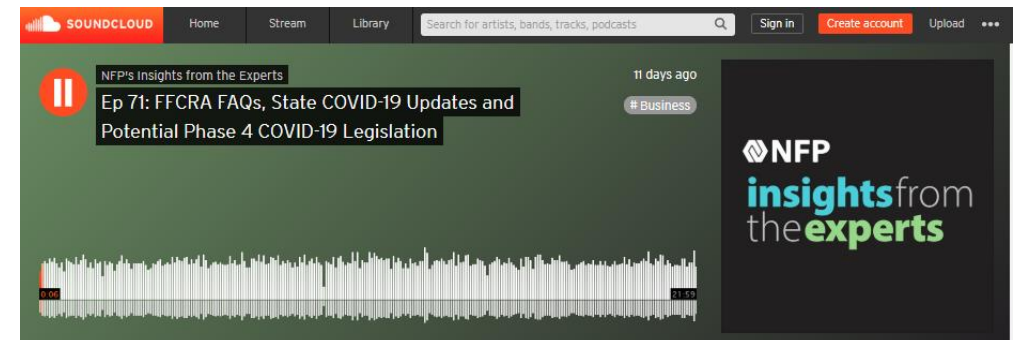
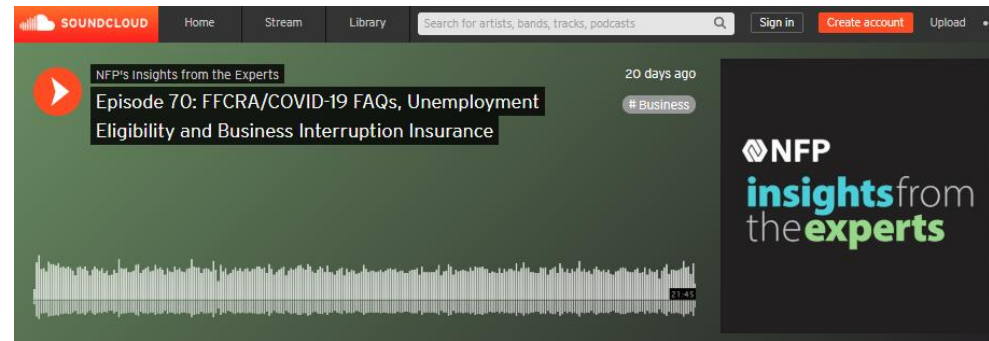
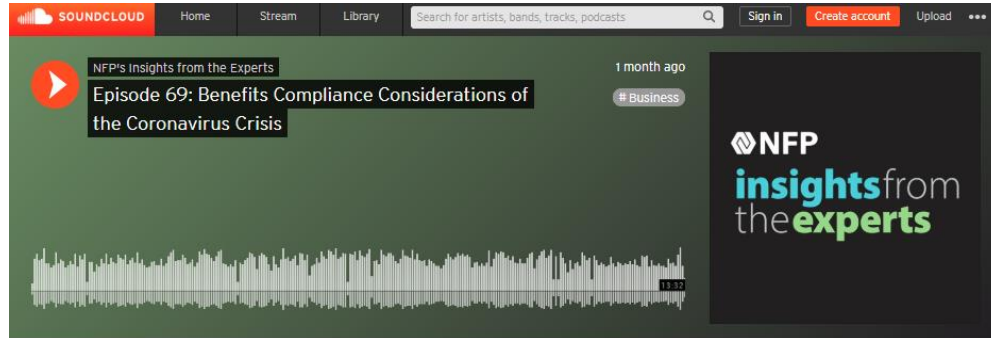
This white paper describes the basic components of the NY Act. It is meant to serve as a guide to the state's provisions at a high level as of the publication date noted in the footer. The regulatory environment is changing rapidly in response to the COVID-19 pandemic, and our understanding of the NY Act and its application may change as more information becomes available. Employers with specific questions should work closely with their benefits consultants to address case-specific concerns. Please also see the "Resources" section of the white paper for additional information.

Highlights of the NY Act

The provisions of the NY Act pertain exclusively to employee absences on and after March 18, 2020, that are directly related to COVID-19 and that are not covered to a greater extent by the federal Families First Coronavirus Response Act (FFCRA) enacted effective April 1, 2020.

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COVID-19-Related Podcasts



Q/A Session: Questions Please!



Resources:

FFCRA: <https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.pdf>

FFCRA Fact Sheet: <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

FFCRA: Questions and Answers: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

FFCRA Non-enforcement Bulletin: <https://www.dol.gov/agencies/whd/field-assistance-bulletins/2020-1>

FFCRA Model Notice: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

FFCRA Notice FAQs: <https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>

CARES Act: <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>

IRS Filing and Payment Deadline Extension Q&As: <https://www.irs.gov/newsroom/filing-and-payment-deadlines-questions-and-answers>

FAQs About FFCRA and CARES Act Implementation Part 42:

<https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-42.pdf>



Visit our Latest Insights page for more COVID-19 coverage

<https://latest-insights.nfp.com/>



Tomorrow's Webinar: COVID-19 HR Solutions Updates & FAQs

https://nfp.zoom.us/webinar/register/WN_v7PxVzb3QgeVzUoIZw1Jiw

