

FAMILY FIRST CARES RELIEF ACT



Leave Reason	Emergency Paid Sick Leave (EPSL) Employee Benefit	Emergency Family Medical Leave (EFML) Employee Benefit*	Emergency Paid Sick Leave (EPSL) Employer Benefit	Emergency Family Medical Leave (EFML) Employer Benefit	
Subject to a Federal, State, or local quarantine or isolation order related to COVID-19	Entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period)	N/A	Tax credit up to \$5110 per employee	N/A	EPSL EMERGENCY PAID SICK LEAVE (SELF) USE PAY CODE 50
Has been advised by a health care provider to self-quarantine related to COVID-19	Entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period)	N/A	Tax credit up to \$5110 per employee	N/A	
Experiencing COVID-19 symptoms and is seeking a medical diagnosis	Entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period)	N/A	Tax credit up to \$5110 per employee	N/A	
Caring for an individual subject to an order described in (1) or self-quarantine as described in (2)	Entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period)	N/A	Tax credit up to \$2000 per employee	N/A	EPSL EMERGENCY PAID SICK LEAVE (OTHER) USE PAY CODE 51
Caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19	Entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period — two weeks of paid sick leave followed by up to 10 weeks of paid expanded family and medical leave)	Entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period — two weeks of paid sick leave followed by up to 10 weeks of paid expanded family and medical leave)	Tax credit up to \$2000 per employee	Tax credit up to \$10,000 per employee	EFMLA EMERGENCY FAMILY MEDICAL LEAVE ACT USE PAY CODE 52
Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury	Entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period)	N/A	Tax credit up to \$2000 per employee	N/A	EPSL EMERGENCY PAID SICK LEAVE (OTHER) USE PAY CODE 51
*EFML only available to employees that have been employed for at least 30 days					



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On March 18, President Trump signed the Families First Coronavirus Response Act (H.R. 6201), “FFCRA,” which provides affected individuals with paid sick and emergency leave and creates tax credits for affected employers, expands food and nutrition services, allows for emergency state unemployment insurance grants, and increases Medicaid funding to states, among other things.

UPDATE: Based on new guidance from the Department of Labor (DOL), the FFCRA becomes effective on Wednesday, April 1, 2020. This date relieves many administrative burdens for calculation of the tax credit as no eligible leave will be contemplated during Q1 2020. **Employers will be able to first claim the tax credit on its Q2 941 filing due July 31, 2020 for the period 4/1/2020-6/30/2020.**

1. Benefits for Employers

Emergency Family Medical Leave (EFML) Tax Credit

Any amount paid by an employer under EFML is eligible for a 100% refundable tax credit, equal to 100% of the qualified emergency family leave wages required to be paid by the Emergency Family and Medical Leave Expansion Act. The credit is claimed against the tax imposed by section 3111(a) (the employer portion of the Social Security taxes) each calendar quarter through the IRS Form 941. The amount of qualified leave wages taken into account for each employee is capped at \$200 per day and \$10,000 for all calendar quarters. If the credit exceeds the employer’s total liability for any calendar quarter, the excess credit is refundable to the employer.

Emergency Paid Sick Leave (EPSL) Credit

This is a 100% refundable tax credit for employers, equal to 100% of qualified paid sick leave wages required to be paid by the Emergency Paid Sick Leave Act that are paid by an employer for each calendar quarter through the IRS Form 941. The tax credit is allowed against the tax imposed by section 3111(a) of the Internal Revenue Code (the employer portion of Social Security taxes). This credit is capped at \$2,000 or \$5,110, depending on the sick leave taken by the employee.

1. Benefits for Employers (continued)

Claiming an exemption for employers with less than 50 employees

Employers with less than 50 employees may elect an exemption to the EPSL and EFML if it would jeopardize the viability of the business as a going concern. To elect this small business exemption, a business should document why its business with fewer than 50 employees meets the criteria set forth by the Department, which will be addressed in more detail in forthcoming regulations.

Special Considerations for Self-Employed Individuals

Self-employed individuals may only take into account those days they are unable to work for qualified reasons under the Emergency Family and Medical Leave Credit or the Emergency Paid Sick Leave Credit. They must maintain documentation to be prescribed by the Treasury to establish their eligibility for the credit.

Other Elements of FFCRA

- Unemployment insurance: Provides as much as \$1 billion for emergency transfers to states in fiscal 2020 to process and pay unemployment benefits. Individuals in states with rising unemployment can qualify for an additional 13 weeks (20 in some states) of unemployment benefits.
- Increase in Medicaid funding: Provides states with a 6.2% Medicaid FMAP increase for all medical services for the duration of the public health emergency.
- Other provisions: Healthcare plans, including high-deductible health plans, are to provide for COVID-19 testing at no cost to the insured. This includes diagnostic testing, including visits to a provider, urgent care center or emergency room. There is also a waiver of Medicare, Medicare Advantage, Medicaid and CHIP cost sharing.

Actions Employers Can Take Today

Employers may be eligible, depending on the direct or indirect impact to their employees, for up to a total of \$10,000 for EFMLA, and up to \$2000 or \$5110 for sick leave in tax credits for employees that are on emergency or sick leave. Employers must accurately capture the hours and corresponding pay for each type of leave in order to calculate and capture the tax credit.

2. Benefits for Employees

Emergency Family Medical Leave (EFML)

Private-sector (and tax-exempt) employers with fewer than 500 workers and all government entities would be required to provide as many as 12 weeks of job-protected leave to employees **ONLY** in the situation in which they are unable to work or telework due to caring for a child (under the age of 18) whose school or place of care is closed. The first 10 days may be unpaid, although a worker could choose to use other accrued leave (including EPSL). Employers would be required to pay employees two-thirds of their wages, not to exceed \$200 per day and \$10,000 in the aggregate. Only employees that have been employed for at least 30 days by the employer will qualify.

As with traditional FMLA leave, EFMLA leave is job-protected, and an employer must return the employee to the same or equivalent position upon their return to work. The bill outlines an exception for employers with fewer than 25 employees stating that, if the employee's job no longer exists due to the coronavirus pandemic, employers would be required to make reasonable efforts to restore the employee to an equivalent position over a one-year period.

The bill grants the Secretary of Labor the authority to issue regulations exempting: (1) certain healthcare providers and emergency responders from taking leave under the bill; and (2) small businesses with fewer than 50 employees from the requirements of the bill if it would jeopardize the viability of the business.

Emergency Paid Sick Leave (EPSL)

Private-sector (and tax-exempt) employers with fewer than 500 workers and all public-sector employers would have to provide paid sick leave of two weeks (80 hours) for full-time employees. The same employers would have to provide average hours for a two-week period for part-time employees. These benefits are capped at \$511 per day and \$5,110 in the aggregate for those on leave because of their own health issue, and \$200 per day and \$2,000 in the aggregate for those needing to care for others.

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2. Benefits for Employees (continued)

Qualifying sick leave under this bill includes **ANY** of the following situations:

- Employee is under federal, state or locally mandated quarantine or isolation (employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period));
- Employee has been advised by a healthcare provider to self-quarantine (employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period));
- Employee is experiencing symptoms and seeking a medical diagnosis employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period));
- Employee is caring for an individual under (1) or (2) above (employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period));
- Employee is caring for a family member under quarantine or isolation, or caring for a child whose school has closed, or care provider is unavailable, due to the coronavirus (employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period));
- Employee is experiencing substantially similar condition specified by Health and Human Services Secretary (employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period)).