

Summary of the Families First Coronavirus Response Act

The Families First Coronavirus Response Act (the “Act”) was put together quickly, partially by aggregating separate bills. Thus, there are “divisions” A through H to the Act, some of which were drafted to be separate acts. A summary of significant aspects (to the drafter) of each division is provided below. The Act was signed into law on March 18th.

Division A: Appropriates funds to various agencies, including \$15M to the IRS to deal with administration

Division B: Changes school breakfast and lunch provisions to continue to make them available off the premises of the school, while also loosening WIC (Woman and Infant Children) testing requirements and increasing food stamps eligibility for lower income workers losing work

Division C: Generally expands Family and Medical Leave Act (FMLA) for 2020 to provide that employers with fewer than 500 employees must grant FMLA leave (up to 12 weeks) for an employee parent who has been employed at least 30 days and is unable to work or telework in order to take care of a son or daughter under age 18 if the school or place of care (or child care provider) has been closed due to a public health emergency. It also provides for paid leave based on 2/3rds the employee’s ordinary hourly rate for time off from work to care for such child/children, provided that the pay won’t exceed \$200/day and the total to be paid by the employer won’t exceed \$10,000. The first ten days of leave can be unpaid. (The employee can use accrued paid leave during these 10 days, if such exist from an employee benefit plan, etc.) The DOL has authority to exempt (a) health care providers and (b) any business with fewer than 50 employees if the requirements would jeopardize the viability of the business as a going concern.

Division D: Provides for additional funding to states to pay unemployment benefits

Division E: Provides for up to ten (10) days of paid leave to employees unable to work or telework who fall within one of six (6) different categories. The six categories are: (1) employee is subject to a government quarantine or isolation order due to Coronavirus; (2) employee has been advised by a health care professional to self-quarantine due to concerns related to the Coronavirus; (3) employee is experiencing symptoms of Coronavirus and is seeking medical diagnosis; (4) employee is caring for an individual who is subject to an order described in (1) or has been advised as described in (2); (5) employee is caring for a son or daughter (regardless of age) 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 the Coronavirus; or (6) employee is experiencing any other substantially similar condition specified by HHS. The pay for (1)-(3) is the ordinary pay rate (or, if greater, minimum wage), not to exceed \$511 per day. The pay for (4)-(6) is 2/3rds of the ordinary pay (or, if greater, minimum wage), not to exceed \$200 per day. Employers must post notice of rights; a model notice is due by March 25th.

Division F: Health plans, Medicare, Medicaid, and Tricare shall cover, and shall not charge anything additional (e.g. co-pays, co-insurance, etc.) for Coronavirus diagnosis/testing; states can act to have costs of the uninsured covered by the federal government

Division G: Employers will be reimbursed for leave pay and related health care premiums under Divisions C and E by reducing payroll taxes otherwise owed to the IRS; if insufficient, cash will be paid by the IRS; self-employed persons can get similar tax credits/payments, based on meeting conditions for Divisions C and E benefits

Division H: Budgetary effects of the Act – shall not be entered into the PAYGO scorecards

EFFECTIVE DATE OF PAY PROVISIONS: No later than April 2, 2020. Some articles state this means April 2, 2020.