

2020

JOINT ASSOCIATION EXECUTIVES INSTITUTE

MARCH 13-16, 2020 | San Diego, CA



#NARAEI2020



Welcome and Introduction

John Gormley, RCE

Chief Executive Officer

Mainstreet Organization, IL



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Navigating the Family First Coronavirus Response Act

Friday, April 17, 2020

12:00 noon EDT

*Stay Tuned.

We will get started soon!*



#NARAEI2020



Today's speakers:

- ***Donna Garcia, SPHR, SHRM-SCP, RCE***

Director, Compensation, Benefits and Strategic Association Management, NAR



- ***Carole Kaptur***

Consultant, Strategic Association Management Services, NAR



Families First Coronavirus Response Act (FFCRA) & New Unemployment Eligibility

Presented by:

Carole Kaptur, *Consultant,*

Strategic Association Management Services

Donna Garcia, *Director,*

Compensation, Benefits and Strategic Association Management Services

NATIONAL ASSOCIATION OF REALTORS®

UNCHARTERED TERRITORY

UNCHARTERED TERRITORY BRINGS MANY CHALLENGES

- ✓ PLANNING
- ✓ STAFFING
- ✓ COMMUNICATION
- ✓ PERSONAL
- ✓ FINANCIAL

**THERE IS SOME
GOOD NEWS!**

WE'RE HERE FOR YOU!

WE'RE HERE FOR YOU!



- Contact your Strategic Association Management (SAM) Team –
 - Carole Kaptur
 - ckaptur@nar.realtor
 - 312-329-8311
 - Kelsi Dunn
 - kdunn@nar.realtor
 - 312-329-8518

OVERVIEW

FAMILIES FIRST CORONAVIRUS RESPONSE ACT - 2 COMPONENTS

- ✓ EMERGENCY PAID SICK LEAVE
- ✓ EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

OVERVIEW-FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

- 2 Components –
 - Emergency Paid Sick Leave Act
 - Emergency Family and Medical Leave Expansion Act
- Effective April 1 – December 31, 2020
- Reduced by any prior FMLA leave
- Provides employer payroll tax credits (for wages and insurance costs)
- Employers may not discharge, discipline or discriminate against an employee for taking such leave

OVERVIEW

- These components do not diminish the rights an employee may be entitled to under other Federal, State or Local laws
- Employers are not required to pay employees for any unused leave upon termination
- Posting notice is required
- Notice to the employer must be provided as soon as practicable
- **Treatment** of COVID-19 would fall under our regular Extended Sick Leave, Sick Leave and FMLA policies
- Once leave under this regulation has been exhausted when caring for a child or spouse who is ill or if an employee is ill, regular FMLA would apply

Small Business Exemption

Small Business Exemption

An employer with fewer than 50 employees is exempt from providing

- (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and
- (a) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business as a going concern.

Small Business Exemption

A small business may claim this exemption if an authorized officer of the business has determined that:

- (1) The provision of leave would result in the small business' expenses and financial obligations *exceed available business revenues* and cause the small business to *cease operating at a minimal capacity*;
- (2) The absence of the employee or employees requesting leave would *entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities*; or
- (3) There are *not sufficient workers* who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting the leave, and these labor or services are needed for the small business to operate at a minimal capacity. (29 C.F.R. §826.40(b)(1).)

Small Business Exemption

- There is no application process to apply for this exemption
- An employer deciding to deny paid sick leave or expanded family and medical leave to an employee must document the facts and circumstances that meet the criteria as outlined in the three conditions above.
- If an employer denies an employee's request for leave pursuant to the small business exemption, the employer must document its authorized officer's determination that the prerequisite criteria for that exemption are satisfied and **retain such documentation for four years.** (29 C.F.R. §826.40(a).)
- Posting the DOL notice is still required.
- An employer may email or direct mail this notice to employees, or posting this notice on an employee information internal or external website.

Qualifying Reasons for Leave

Qualifying Reasons for Leave

1. Subject to a Federal, State or local quarantine or isolation order
2. Advised by a health care provider to self quarantine
3. Experiencing symptoms ***and is seeking medical diagnosis***
4. Caring for ***an individual*** subject to: government quarantine or isolation order or advised by a health care provider to self quarantine (#1 or #2)
5. Caring for your child(ren) whose school or place of care is closed (or child care provider is unavailable)
6. Experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services (HHS).

Duration, Pay and Eligibility

Reason in relation to COVID-19	Type of Leave	Duration of Leave	Pay	Eligibility	Apply Sick Leave Policy	FMLA ELIGIBLE 50+ ee's
1. Employee is advised by a health care provider to self quarantine	80 hours two thirds up to 200	F/T-Up to 80 hours ; P/T avg of 2 wk period	Regular rate of pay, up to \$511/day, maximum \$5,110 over the 2 wk period	Immediate		
Example: Employee is not ill- If self quarantine b/c they were in contact with someone who has the virus but they are not sick. If employee is able to work, they may do so.	Emergency Paid Sick Leave (EPSL)	F/T-Up to 80 hours ; P/T avg of 2 wk period	Regular rate of pay, up to \$511/day, maximum \$5,110 over the 2 wk period	Immediate	N	N
Example: Employee is ILL- If self quarantine b/c they are ill (Your sick leave policies may apply; we would ask for medical cert at onset and a RTW note -Your sick leave policy may be more generous)	Emergency Paid Sick Leave (EPSL)	F/T-Up to 80 hours; P/T avg of 2 wk period	Regular rate of pay, up to \$511/day, maximum \$5,110 over the 2 wk period	Immediate	Y	Y, if qualified

Duration, Pay and Eligibility

Reason in relation to COVID-19	Type of Leave	Duration of Leave	Pay	Eligibility	Apply Sick Leave Policy	FMLA ELIGIBLE 50+ ee's
2. Employee is experiencing symptoms and is seeking medical diagnosis	Emergency Paid Sick Leave (EPSL)	F/T-Up to 80 hours ; P/T avg of 2 wk period	Regular rate of pay, up to \$511/day, maximum \$5,110 over the 2 wk period	Immediate	Y	Y, if qualified
3(a). Employee is caring for an individual (NON-FAMILY MEMBER) subject to: government quarantine or isolation order or advised by a health care provider to self quarantine - Applies to anyone the employee may know and they are the caretaker	Emergency Paid Sick Leave (EPSL)	F/T-Up to 80 hours ; P/T avg of 2 wk period	2/3 regular rate of pay, up to \$200/day, maximum \$2,000 over the 2 wk period	Immediate	N	N
3(b). Employee is caring for an individual (FAMILY MEMBER) subject to: government quarantine or isolation order or advised by a health care provider to self quarantine - Applies to anyone the employee may know and they are the caretaker	Emergency Paid Sick Leave (EPSL)	F/T-Up to 80 hours; P/T avg of 2 wk period	2/3 regular rate of pay, up to \$200/day, maximum \$2,000 over the 2 wk period	Immediate	?	Y, if qualified (family member is ill)

Duration, Pay and Eligibility

Reason in relation to COVID-19	Type of Leave	Duration of Leave	Pay	Eligibility	Apply Sick Leave Policy	FMLA ELIGIBLE 50+ ee's
4. Employee is caring for their child(ren) whose school or place of care is closed (or child care provider is unavailable)	Under EFML for 12 weeks -first 2 weeks Paid Sick Leave (EPSL) (80 hours)	F/T Up to 80 hours- LESS ANY FMLA or EPS LEAVE ALREADY TAKEN, otherwise, first 10 days are unpaid.	2/3 regular rate of pay, up to \$200/day, maximum \$2,000 over the 2 wk period	Immediate	N	N
	EFML for remaining 10 weeks.	F/T - Up to an additional 10 weeks @ 40 hrs/wk; Based on # of hrs normally scheduled to work over that period	2/3 regular rate of pay, up to \$200/day, maximum \$2,000 over the 2 wk period	Employed for 30 days	N	N

Duration, Pay and Eligibility

Reason in relation to COVID-19	Type of Leave	Duration of Leave	Pay	Eligibility	Apply Sick Leave Policy	FMLA ELIGIBLE 50+ ee's
5. Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services HHS.	Emergency Paid Sick Leave (EPSL)	F/T-Up to 80 ; P/T avg of 2 wk period	2/3 regular rate of pay, up to \$200/day, maximum \$2,000 over the 2 wk period	Immediate	Y	Y, if qualified
6. Employee is subject to a Federal, State or local government quarantine or isolation order	Emergency Paid Sick Leave (EPSL)	F/T - Up to 80 hours; P/T Avg of 2 wk period	Regular rate of pay, up to \$511/day, maximum \$5,110 over the 2 wk period	Immediate	N	N
Does not include states or other municipalities who are on a "stay at home order". Limited to an official government isolation order. We are told to stay quarantined/isolated while we monitor your health (e.g., if you traveled to a certain area that has been exposed, you must stay home and cannot leave for any reason) Uses "quarantined order in the declaration).						

UNEMPLOYMENT BENEFITS

- A business has to temporarily shut down due to the virus, preventing employees from coming to work.
- If an employee is quarantined and plans on returning to work afterward.
- If an employee leaves work due to a risk of exposure or infection or to care for a family member.
- These components do not diminish the rights an employee may be entitled to under other Federal, State or Local laws



SO MANY QUESTIONS!

- Is medical certification required?
- Is a doctor's return to work note required?
- Can notice to employees be provided via email due to telework?
- If both parents work for the same employer, are both entitled to the leave?
- How do employers apply for tax credits?

Questions?

Contact:

Carole Kaptur, ckaptur@nar.realtor

312/329-8311

THANK YOU.



NARdotRealtor



nar.realtor

Q&A



Mark your calendars
for our next live event
***Planning and Budgeting
in the Coronavirus World***

Next Friday, April 24

11:00 a.m. CST

12:00 noon EST

**Registration available soon!*



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